

Message

From: grundler.christopher@epa.gov [grundler.christopher@epa.gov]
Sent: 12/6/2018 7:54:17 PM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
Subject: Re: 2 Things

Deliberative Process / Ex. 5

Christopher Grundler, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
202.564.1682 (Washington DC)
734.214.4207 (Ann Arbor MI)
734.645.5221 (mobile)
www.epa.gov/otaq

On Dec 6, 2018, at 2:52 PM, Hengst, Benjamin <Hengst.Benjamin@epa.gov> wrote:

Deliberative Process / Ex. 5

On Dec 6, 2018, at 1:15 PM, Grundler, Christopher <grundler.christopher@epa.gov> wrote:

Deliberative Process / Ex. 5

Christopher Grundler, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
202.564.1682 (Washington, DC)
734.214.4207 (Ann Arbor, MI)

From: Hengst, Benjamin
Sent: Thursday, December 06, 2018 1:06 PM
To: Grundler, Christopher <grundler.christopher@epa.gov>
Subject: RE: 2 Things

Deliberative Process / Ex. 5

The 9:30 was very smooth.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Grundler, Christopher
Sent: Thursday, December 6, 2018 10:46 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: 2 Things

Deliberative Process / Ex. 5

--what happened at the 9:30?

Christopher Grundler, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
202.564.1682 (Washington, DC)
734.214.4207 (Ann Arbor, MI)

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 5/18/2016 7:38:09 PM
To: McCabe, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d2ca413e5a534895bd6042d82e5b5f63-McCabe, Janet]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Walsh, Ed [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=51f3bac3af644626b6a70f087751baca-EWalsh]; Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]
CC: Niebling, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8fb45c85622f4be5a2f0ce12a9798204-Niebling, W]; Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: Rep. Simpson Hill Briefing (Confirmed)
Attachments: RE: Rep. Simpson Meeting; RE: Rep. Simpson Meeting?; RE: Rep. Simpson Meeting?
Location: Rayburn, Room 2312
Start: 5/19/2016 1:30:00 PM
End: 5/19/2016 2:30:00 PM
Show Time As: Busy

To: Janet McCabe, Ben Hengst, Ed Walsh, David Orlin

FYI: Chris Grundler, William Niebling, Tia Sutton



RE: Rep. Simpson
Meeting



RE: Rep. Simpson
Meeting?

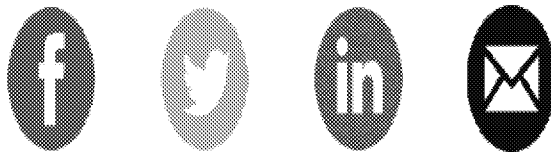


RE: Rep. Simpson
Meeting?

Message

From: The Hill [thehill@email.thehill.com]
Sent: 7/20/2018 8:48:36 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: Overnight Energy: Court rejects new effort to stop kids' climate lawsuit | Baltimore is latest city to sue over climate change | EPA staffers worried about toxic chemical in Pruitt's desk

[View in your browser](#)



COURT REJECTS NEW ATTEMPT TO HALT KIDS' CLIMATE SUIT: A federal appeals court blocked the Trump administration's second attempt to halt a lawsuit filed by a group of children over climate change.

The California-based 9th Circuit Court of Appeals ruled unanimously on Friday that the lawsuit can go forward.

"We denied the government's first mandamus petition, concluding that it had not met the high bar for relief at that stage of the litigation. No new circumstances justify this second petition, and we again decline to grant mandamus relief," read a court order.

The suit argues that the Trump administration "violated the youngest generation's constitutional rights to life, liberty, and property, as well as failed to protect essential public trust resources" through their climate policies.

Today's ruling was not on the merits of the case, but rather clears the way for an Oct. 29th hearing.

The Trump administration has twice sought to either halt the case or have it thrown out entirely.

The same court ruled against the Trump administration earlier this year after attorneys for the Justice Department argued that the burden for the process of discovery would be overbearing.

Read more [here](#).

And in other climate lawsuit news...

Baltimore on Friday became the latest city to file a lawsuit against oil and gas giants seeking to hold the companies financially responsible for contributing to global climate change.

The city filed a suit challenging BP, Exxon, Shell Oil and 23 other oil and gas giants that do business in the city, accusing the companies of knowingly emitting harmful carbon dioxide pollution.

The lawsuit, which seeks damages and legal penalties from the companies, cites eight alleged offenses including failure to warn the public and public nuisance.

"The city seeks to ensure that the parties who have profited from externalizing the responsibility for sea level rise, extreme precipitation events, heatwaves, other results of the changing hydrologic regime caused by increasing temperatures, and associated consequences of those physical and environmental changes, bear the costs of those impacts on the city," the lawsuit reads.

It's a trend: Friday's suit is the latest in a string of similar cases — many of which have been promptly thrown out by courts — that cities across the U.S. have filed challenging fossil fuel companies for knowingly contributing and profiting off of a product that directly contributes to climate change.

The suit follows on the heels of a case dismissed by a federal judge in New York on Thursday evening.

Read more [here](#).

TGIF! Welcome to Overnight Energy, The Hill's roundup of the latest energy and environment news.

Please send tips and comments to Timothy Cama, tcama@thehill.com, and Miranda Green, mgreen@thehill.com. Follow us on Twitter: [@Timothy_Cama](https://twitter.com/Timothy_Cama), [@mirandacgreen](https://twitter.com/mirandacgreen), [@thehill](https://twitter.com/thehill).

PRUITT STAFFERS ONCE WORRIED ABOUT TOXIC CHEMICAL FROM HIS DESK: Former Environmental Protection Agency (EPA) Administrator Scott Pruitt's nearly \$10,000 office redecoration included the purchase of a desk his staffers feared was contaminated by a toxic chemical.

Email interactions between EPA staffers first reported by Politico on Friday, showed that aides worried about the potential health effects of formaldehyde found in the desk. The fears they raised came just months before the EPA blocked the release of a report highlighting the dangers of formaldehyde exposure in drinking water.

According to the emails released through a Freedom of Information Act (FOIA) request to American Oversight, staffers worried about a safety warning placed on the desk from California -- which classifies formaldehyde as a carcinogen.

Staffers were so concerned about the warning that acting deputy chief of staff Reginald Allen reached out to an EPA career official serving as acting head of EPA's toxic chemicals office for advice.

"Sorry to bother you with this but we need some help. The desk the Administrator wants for his office from Amazon has a California Proposition 65 warning. What I am asking is can someone in your area tell us whether it is OK to get this desk for the Administrator related to the warning?" Allen wrote on April 7 to Wendy Cleland-Hamnett and one other career official.

Read more [here](#).

ON TAP NEXT WEEK:

The House Natural Resources committee Tuesday will hold an oversight hearing looking into [alternative uses of coal](#).

The House Energy and Commerce committee the same day will explore a discussion draft of a bill that would aim to authorize the Department of Energy to carry out a program to [lease underutilized petroleum research facilities](#) for other purposes.

The House Science, Space and Technology committee will have a markup Tuesday of a bill that would direct [all assessments on the toxicity of chemicals](#) be carried out by the program offices of the Environmental Protection Agency.

The House Oversight committee's subcommittee on the Interior, Energy, and Environment will hold a hearing Tuesday examining the [rights to let animals graze on federal land](#).

The House committee on Natural Resources Wednesday will hold an oversight hearing looking into the management crisis that overwhelmed [Puerto Rico in the wake of Hurricane Maria](#).

Over on the Senate side on Wednesday, the Commerce, Science, and Transportation subcommittee on Space, Science, and Competitiveness will [examine putting boots on Mars](#).

OUTSIDE THE BELTWAY:

Appeals court [reverses](#) course after EPA denied Ergon - West Virginia, Inc., a small refinery hardship waiver in 2016

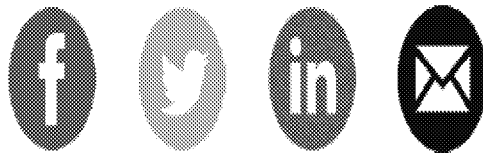
North Dakota's Attorney General files \$38 million [claim](#) to federal government over pipeline protests

Canada's looming tough climate policies face [backlash](#)

IN CASE YOU MISSED IT:

Check out stories from Friday...

- Court rejects new Trump attempt to halt kids' climate lawsuit
- Pruitt staffers worried about toxic chemical in his desk
- Baltimore joins cities filing climate change lawsuits against fossil fuel companies
- Interior fast tracks study of drilling's Arctic impact: report
- Zinke left some details off public calendar: report
- Judge dismisses New York City's climate change lawsuit against oil companies



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Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 1/22/2014 10:13:39 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: FW: Monroe **Deliberative Process / Ex. 5**
Attachments: Monroe - Background Arg I Working Draft (1.15.2013) (1)RD1-20.doc

Chris – just a heads-up that sometime tomorrow, we expect to get a full brief that from DOJ on the Monroe/API/AFPM litigation on the 2013 standards. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5 I'll send that along as a backgrounder for you. Just wanted to make sure you knew where this was in the process of preparing the brief.

From: Dubois, Roland
Sent: Tuesday, January 21, 2014 2:04 PM
To: Hengst, Benjamin
Subject: FW: Monroe Argument 1

Ben, the current version of the brief exists in multiple pieces, which I will send to you separately. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

From: Dubois, Roland
Sent: Tuesday, January 21, 2014 12:24 AM
To: Bell, Lisa (ENRD)
Cc: Lynk, Brian (ENRD)
Subject: Monroe Argument 1

Lisa, my comments are attached. Thank you. Roland

Message

From: Stewart, Lori [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8404F4FF6C924B2F8F3FB80C3A4467A7-LSTEWAO4]
Sent: 8/13/2013 3:08:40 PM
To: Ketcham-Colwill, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=118c7a0cdcaa420ca8e0f079670d0a4b-Ketcham-Colwill, Nancy]; OAR Special Assistants [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0388a97202cb42329080b4d0ace0bb50-OAR Special Assistants]
CC: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]; Ghanta, Venu [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf46c0305194992a35fd4fa7b1b78fc-vghanta]; Le, Madison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9297d8b52bcb41319ba40d11142ab307-Le, Madison]
Subject: RFS Paper for Iowa visit
Attachments: RFS Overview august13.docx

Nancy and Daniel, here is the background paper on RFS for the Administrator's visit to Iowa. Thanks.

Message

From: Stewart, Lori [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8404F4FF6C924B2F8F3FB80C3A4467A7-LSTEWA04]
Sent: 8/8/2013 4:06:34 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]; Ghanta, Venu [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf46c0305194992a35fd4fa7b1b78fc-vghanta]
Subject: FW: draft RFS small refinery letter 7-26
Attachments: draft RFS small refinery letter 7-26.docx

fyi

From: Stewart, Lori
Sent: Thursday, August 08, 2013 12:06 PM
To: Ketcham-Colwill, Nancy
Subject: FW: draft RFS small refinery letter 7-26

Nancy, here is the small refinery letter I mentioned the other day. After this email, Chris asked that this be shared with Janet and Joel indicated to me that he would do so. Janet may have been fine with it but since Joel went on vacation, we didn't hear back. Deliberative Process / Ex. 5 if you have a chance to check in with her on this. Thanks.

From: Beauvais, Joel
Sent: Friday, July 26, 2013 4:44 PM
To: Ghanta, Venu
Cc: Argyropoulos, Paul; Hengst, Benjamin; Stewart, Lori
Subject: draft RFS small refinery letter 7-26

Looks fine – a few nits attached

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 12/19/2018 10:52:33 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: Fwd: Updated connect the dots briefing
Attachments: Upcoming RFS Actions and Implications for Wheeler v2.pptx; ATT00001.htm

Begin forwarded message:

From: "Burkholder, Dallas" <burkholder.dallas@epa.gov>
Date: December 19, 2018 at 5:33:02 PM EST
To: "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Machiele, Paul" <machiele.paul@epa.gov>
Subject: Updated connect the dots briefing

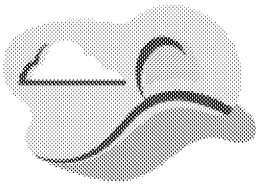
Have to run now, but here is what I was able to do. Ben, feel free to make edits as you see fit and send to Chris. I can make additional edits tomorrow morning if necessary.

Dallas Burkholder
Office of Transportation & Air Quality
US Environmental Protection Agency
(734)214-4766
Burkholder.Dallas@epa.gov

Message

From: Governors' Biofuels Coalition [larry@governorscoalition.org]
Sent: 11/15/2018 1:00:13 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: Today's Biofuels News

Please add the Governors' Biofuels Coalition to your address book for uninterrupted delivery
 View this email in a web browser.



GOVERNORS' BIOFUELS COALITION

NEWS UPDATE

November 15, 2018

Top Story

Biofuel groups ask federal judge to freeze U.S. refinery waiver program

By Jarrett Renshaw, Reuters • • Posted November 15, 2018

A group representing biofuel companies asked a federal judge on Tuesday to force the U.S. Environmental Protection Agency to stop exempting small refineries from renewable fuel laws until a lawsuit challenging the agency's actions is resolved. Producers United argued the EPA violated the law when it issued retroactive biofuel credits to HollyFrontier and Sinclair Oil this year as part of a legal settlement. [[read more ...](#)]

PRUITT Argues Agency Lacks Authority to Grant Waivers Retroactively

By Todd Neeley, DTN/Progressive farmer • • Posted November 15, 2018

A biofuels industry petitioner asked a federal appeals court to stop the EPA from issuing additional small refinery waivers to the Renewable Fuel Standard. The petitioner calling itself Producers of Renewables United for Integrity Truth and Transparency, or PRUITT, asked EPA in July to remove invalid Renewable Identification Numbers, or RINs, from the market and to stop issuing small refinery waivers until the agency changed the regulation. The agency didn't respond and was sued by the group at the end of July. [[read more ...](#)]

Policy & Politics

Part of the Answer to Climate Change May Be America's Trees and Dirt, Scientists Say

By Brad Plummer, New York Times • • Posted November 15, 2018

When people think of potential solutions to global warming, they tend to visualize technologies like solar panels or electric cars. A new study published on Wednesday, however, found that better management of forests, grasslands and soils in the United States could offset as much as 21 percent of the country's annual greenhouse gas emissions. At the high end of the projections, that would be roughly equivalent to taking every single car and truck in the country off the road.

[[read more ...](#)]

U.S. Farmers Scramble to Contain Trade-War Damage, Find New Markets

By P.J. Huffstutter and Karl Plume, New York Times • • Posted November 15, 2018

U.S. farmers would need about 11,000 markets the size of Sri Lanka to replace Chinese soybean purchases, but these days many growers will take any shred of new business they can get. A small but growing number of farmers have all but given up waiting for diplomatic solutions and started scrambling themselves to help open new markets and salvage existing ones disrupted by tariffs, according to dozens of interviews with producers, industry officials and trade lobbying groups. [[read more ...](#)]

Stung by trade wars, U.S. farmers hope for quick progress on Farm Bill

By Humeyra Pamuk, Reuters • • Posted November 15, 2018

U.S. soybean farmer Mike Schlosser does not expect President Donald Trump's trade war with China, the single biggest headwind to his business, to end any time soon. But he is among many in farm country who expect at least some good news this year – in the form of a new Farm Bill. Congress comes back on Tuesday for the lame-duck session after Democrats in last week's mid-term elections gained control of the U.S. House of Representatives. Lawmakers have said passing the critical piece of agricultural legislation is their highest priority. [[read more ...](#)]

Grassley Urges Congress to Pass Farm Bill, But Says Extension More Likely

By Jerry Hagstrom1, DTN/Progressive farmer • • Posted November 15, 2018

Sen. Charles Grassley, R-Iowa, told reporters Tuesday that Congress should pass the Senate version of the farm bill during the lame duck session, but said it is more likely there will be a one-year extension of the expired 2014 farm bill. In a call to rural reporters, Grassley said of the Senate bill, "I'm not sure why we can't just pass it in the lame duck."

[[read more ...](#)]

Corn farmers, enviros unite ahead of farm bill

Marc Heller, E&E News reporter • • Posted November 15, 2018

An environmental organization and the main lobbying group for corn farmers said they've signed a formal agreement to work together on farmland conservation, as Congress tries to wrap up the 2018 farm bill. The National Corn Growers Association and Environmental Defense Fund will advocate together on conservation policies, including on federal regulations and legislation, as well as encouraging private industry to invest more in sustainable agriculture, said Suzy Friedman, senior director for agricultural sustainability for EDF. [[read more ...](#)]

In Minn., a GOP climate booster is out. Green Dems are in

Daniel Cusick, E&E News reporter • • Posted November 15, 2018

Long viewed as a high achiever in a region of climate complacency, Minnesota will gain five fresh voices in the 116th House of Representatives. At least three of them will be advocating for stronger climate and clean energy policies. Democratic Reps.-elect Dean Phillips, Angie Craig and Ilhan Omar have all pledged to do more to bring U.S. greenhouse gas emissions under control and prepare Minnesotans for the current and emerging stresses of climate change. [[read more ...](#)]

Beyond a Reasonable Doubt

By Urban Air Initiative • • Posted November 15, 2018

After years of research, the Urban Air Initiative is proud to announce the release of the Beyond a Reasonable Doubt series. The issue at hand is simple: There is a war going on over what you put in your vehicle's gas tank. [[read more ...](#)]

Note: News clips provided do not necessarily reflect the views of coalition or its member governors.

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This message was sent to grundler.christopher@epa.gov from larry@governorscoalition.org

Governors' Biofuels Coalition
Governors' Coalition
P.O. Box 94922
Lincoln, NE 68509



Message

From: Cook, Leila [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D4536AD140A1461781D78CA67921B02F-COOK, LEILA]
Sent: 8/7/2018 7:38:36 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
CC: Charmley, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fb1828fb00af42ffb68b9e0a71626d95-Charmley, William]
Subject: RE: Curious

At OAR Senior Staff this a.m. Bill described last week's proposal very consistent with his other characterizations in recent days and yet again relayed his appreciation for all the team has done. **Deliberative Process / Ex. 5**

Bill, Chris made the inquiries below. Do you have anything to share?

—if BW has said anything post rollout of car nprm

—what we know of LD public hearings

From: Grundler, Christopher
Sent: Tuesday, August 07, 2018 11:39 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Cook, Leila <cook.leila@epa.gov>
Subject: Curious

—how SRE brief went with BW

—how your solo act with AW went

—if BW has said anything post rollout of car nprm

—what we know of LD public hearings

Leaving Bakersfield CA, driving east across Mojave desert toward north rim of Grand Canyon. AQ alert, high forecast 110 degrees

C-

Christopher Grundler, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
202.564.1682 (Washington DC)
734.214.4207 (Ann Arbor MI)
734.645.5221 (mobile)
www.epa.gov/otaq

Message

From: Haley, Mike [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B3D67842D0E435986ABAF1B0C25214E-MHALEY]
Sent: 5/1/2017 3:40:59 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: FW: RFS small refinery hardship FY17 report language capability statements
Attachments: Capability Statements- RFS hardship FY17 House + Senate.docx

FYI. Here's what was originally pulled together regarding the small refinery hardship language that was in both the House and Senate versions of EPA's appropriations bills last summer.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Sutton, Tia
Sent: Monday, May 01, 2017 11:31 AM
To: Haley, Mike <Haley.Mike@epa.gov>
Subject: RFS small refinery hardship FY17 report language capability statements

Hi Mike,

Attached is what we originally put together on both the House & Senate report language.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I'll check in with Ben and let you know what I find out on where things landed.

Thanks!

-Tia

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 7/31/2018 11:40:02 AM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: SRE slide deck
Attachments: SRE Options, July 2018.pptx

Hey Chris—

Sorry we didn't get to chat yesterday.

Personal Matters / Ex. 6

Personal Matters / Ex. 6

I meant to send this yesterday, but it has taken a lot of work to get this slide deck ready (and you'll see that there are still a few comments left to address).

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Hope you are able to enjoy your road trip through the West!

Ben

Message

From: Haley, Mike [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0B3D67842D0E435986ABAF1B0C25214E-MHALEY]
Sent: 5/22/2017 6:03:59 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
CC: Cook, Leila [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d4536ad140a1461781d78ca67921b02f-Cook, Leila]
Subject: Rider language in FY 17 Omnibus -- RFS Small Refiner Hardship Waiver Requests

Deliberative Process / Ex. 5

-----Original Message-----

From: Haley, Mike
 Sent: Monday, May 01, 2017 10:47 AM
 To: Grundler, Christopher <grundler.christopher@epa.gov>
 Cc: Cook, Leila <cook.leila@epa.gov>
 Subject: RE: Needless to say, I am eager to know what deal on 17 bud means for EPA and us

DERA funded at \$60M (increase of \$10M from FY 16 Enacted).

Deliberative Process / Ex. 5

Senate Committee Report Language on RFS Small Refinery Hardship

- Senate Appropriations Committee report language:

Small Refinery Relief – Congress directed the Agency, in consultation with the Department of Energy [DOE], to grant hardship relief to small refineries if compliance with the Renewable Fuel Standard [RFS] would impose a disproportionate economic hardship. In response to several recent petitions, the Agency determined that compliance with the RFS would have a disproportionate economic impact on a small refinery, but denied hardship relief because the small refinery remained profitable notwithstanding the disproportionate economic impact. This is inconsistent with congressional intent because the statute does not contemplate that a small refinery would only be able to obtain an exemption by showing that the RFS program threatens its viability. Congress explicitly authorized the Agency to grant small refinery hardship relief to ensure that small refineries remain both competitive and profitable. In the intensely competitive transportation fuels market, small entities cannot remain competitive and profitable if they face disproportionate structural or economic metrics such as limitations on access to capital, lack of other business lines, disproportionate production of diesel fuel, or other site specific factors identified in DOE's original 2011 Small Refinery Exemption Study prepared for Congress.

When making decisions about small refinery exemptions under the RFS program, the Agency is directed to follow DOE's recommendations which are to be based on the original 2011 Small Refinery Exemption Study prepared for Congress and the conference report to division D of the Consolidated Appropriations Act of 2016. Should the Administrator disagree with a waiver recommendation from the Secretary of Energy, either to approve or deny, the Agency shall provide a report to the Committee on Appropriations and to the Secretary of Energy that explains the Agency position. Such report shall be provided 10 days prior to issuing a decision on a waiver petition.

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 3/3/2017 3:23:16 AM
To: Dunham, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]
CC: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: Revised blurb on small refinery hardship petition criteria
Attachments: Evaluating Small Refinery RFS Hardship Petitions short.docx; RFS Small Refinery Past Decisions 2.27.17.docx

Hi Sarah--pursuant to our talk this morning, below is a revised/shortened blurb for you to edit and forward. I've attached it in Word form too, if that's easier for some reason.

Chris has seen this. Deliberative Process / Ex. 5 Please let us know if you need more on this.

I still owe you a blurb/backgrounder on the AFPM request to delay 2016 compliance; I'll send that your way at some point tomorrow.

Thanks,
Ben

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 7/24/2018 7:37:41 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: RE: Left you a vmail

Got it. I agree. We should talk. **Deliberative Process / Ex. 5**

From: Grundler, Christopher
Sent: Tuesday, July 24, 2018 2:49 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Left you a vmail

Christopher Grundler, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
202.564.1682 (Washington DC)
734.214.4207 (Ann Arbor MI)
734.645.5221 (mobile)
www.epa.gov/otaq

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 7/24/2018 6:31:09 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Attachments: RFS for Acting Administrator Wheeler, July 2018, for Wehrum review.pptx

Chris—I'll send this at about 4pm. Only changes are a few new slides in response to Mandy's request on small refinery exemptions, slides 20-22.

I spoke with Mandy a bit further today to get some tips on what to emphasize, which I'll relay to you later.

Thanks
Ben

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 7/15/2018 1:30:00 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: first draft of Wheeler RFS overview
Attachments: RFS for Acting Administrator Wheeler, July 2018.pptx

Here's take #1. It's a bit on the long side but I left it that way intentionally. I think this covers the major issues and tees up topics for future briefings, but please let me know if I missed something.

I have not yet sent this out for review—I wanted to check in with you first to see if it's in line with your thinking. Review won't take long though. If you think these are in decent shape, I'd suggest you write Wehrum and let him know we are ready to go any time (and therefore put the ball in his court to schedule something).

Unless you suggest otherwise, I would plan to walk through these with Wheeler (as opposed to Paul or someone from his team).

Personal Matters / Ex. 6

Thanks
Ben

Appointment

From: Sutton, Tia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=25E87403F63143ACBB959446512A372C-SUTTON, TIA]
Sent: 10/30/2018 5:15:59 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Burkholder, Dallas [burkholder.dallas@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]; Michaels, Lauren [Michaels.Lauren@epa.gov]; Korotney, David [korotney.david@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Li, Ryland (Shengzhi) [Li.Ryland@epa.gov]; Chad_S_Whiteman@omb.eop.gov; Lamson, Amy [Lamson.Amy@epa.gov]; Nagelhout, Peter [Naghelout.Peter@epa.gov]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Garfinkle, Stacey [garfinkle.stacey@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]
Subject: Interagency briefing on RFS 2019 RVO rule
Attachments: 2019 RVOs Interagency Briefing.pptx
Location: Call-In:
Start: 11/1/2018 3:30:00 PM
End: 11/1/2018 4:30:00 PM
Show Time As: Tentative

Briefing materials attached.

Participant Dial-In:
Participant Code:

Appointment

From: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Sent: 9/11/2018 1:23:54 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Alexander Dominguez (dominguez.alexander@epa.gov) [dominguez.alexander@epa.gov]; Benjamin Hengst (Hengst.Benjamin@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Tia Sutton (sutton.tia@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Justin Schwab (schwab.justin@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]; Alexander Dominguez (dominguez.alexander@epa.gov) [dominguez.alexander@epa.gov]; Benjamin Hengst (Hengst.Benjamin@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Tia Sutton (sutton.tia@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Justin Schwab (schwab.justin@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
CC: Le, Madison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9297d8b52bcb41319ba40d11142ab307-Le, Madison]; Master, Barbora [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2c813860457b42019078b33089aaaae5-bjemelko]; Burkholder, Dallas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=667ef175292d4784997e454a9985b3b3-Burkholder, Dallas]; Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]; Machiele, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b71a67c326714ebbaa72eda552e55282-Machiele, Paul]; Le, Madison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9297d8b52bcb41319ba40d11142ab307-Le, Madison]; Burkholder, Dallas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=667ef175292d4784997e454a9985b3b3-Burkholder, Dallas]
BCC: DCRoomARN5415PolyPCTB/DC-ARN-OAR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user2c066053]
Subject: Meeting: BP RIN Market Briefing
Attachments: Meeting Confirmation - BP RIN Market Briefing; BP proposal
Location: 5415 WJCN
Start: 10/4/2018 3:00:00 PM
End: 10/4/2018 4:00:00 PM
Show Time As: Busy

Appointment

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 10/19/2017 2:08:05 PM
To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Schwab, Justin [Schwab.Justin@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Kime, Robin [Kime.Robin@epa.gov]; Patrick, Monique [Patrick.Monique@epa.gov]; Motley, Judy [motley.judy@epa.gov]
Subject: DOE/EPA
Attachments: Small Refiners Coalition RFS Small Refinery Hardship - 9.13.2017.pdf
Location: 5530 WJCN
Start: 10/27/2017 7:00:00 PM
End: 10/27/2017 8:00:00 PM
Show Time As: Busy

To: Dominguez, Alexander; Gunasekara, Mandy; Schwab, Justin; Bolen, Brittany; Dravis, Samantha; Kime, Robin; Patrick, Monique; Motley, Judy
Subject: DOE/EPA
Re: Small Refiners Coalition

Outside Attendees:
LeAnn Johnson Koch
Jack Lyman
Susan Butler

DOE:
Kyle Yunaska
Mark Maddox
Doug Matheney
Wells Griffith
Sam Buchan

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 11/17/2017 7:28:29 PM
Subject: Conf. Call with DOE re: RFS Small Refinery Exemptions (Confirmed)
Attachments: FW RFS Small Refinery Exemptions.msg; Untitled Attachment
Location: Mandy's Office + **Conference phone and code/Ex. 6**
Start: 11/27/2017 3:00:00 PM
End: 11/27/2017 3:30:00 PM
Show Time As: Busy

Message

To: Mahroum, Eric [Eric.Mahroum@hq.doe.gov]; Yunaska, Kyle [Kyle.Yunaska@hq.doe.gov]; Matheney, Doug [Doug.Matheney@hq.doe.gov]
CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

You are confirmed for a 30 minute conference call on Monday, November 27, 2017 at 10:00am with Mandy Gunasekara (see call in details outlined below).

Conference phone and code/Ex. 6

Feel free to contact me if you have any questions.

Emily Atkinson
Management Analyst/Office Manager
Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Mahroum, Eric [mailto:Eric.Mahroum@hq.doe.gov]
Sent: Friday, November 17, 2017 3:20 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>; Yunaska, Kyle <Kyle.Yunaska@hq.doe.gov>; Matheney, Doug <Doug.Matheney@hq.doe.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: RFS Small Refinery Exemptions

10 is good for me

From: Atkinson, Emily [mailto:Atkinson.Emily@epa.gov]
Sent: Friday, November 17, 2017 3:16 PM
To: Yunaska, Kyle <Kyle.Yunaska@hq.doe.gov>; Mahroum, Eric <Eric.Mahroum@hq.doe.gov>; Matheney, Doug <Doug.Matheney@hq.doe.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: RFS Small Refinery Exemptions

We could do this at 10am if it works for everyone. Let me know your preference.

Emily Atkinson
Management Analyst/Office Manager
Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Yunaska, Kyle [<mailto:Kyle.Yunaska@hq.doe.gov>]
Sent: Friday, November 17, 2017 3:11 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>; Mahroum, Eric <Eric.Mahroum@hq.doe.gov>; Matheney, Doug <Doug.Matheney@hq.doe.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: RFS Small Refinery Exemptions

Hi Emily,

We could all join if the call was at 10:00. Otherwise, 10:30 is fine but Eric will not be able to join.

Kyle R. Yunaska
Senior Advisor and Chief of Staff
Office of Energy Policy and Systems Analysis
U.S. Department of Energy

From: Atkinson, Emily [<mailto:Atkinson.Emily@epa.gov>]
Sent: Friday, November 17, 2017 2:26 PM
To: Yunaska, Kyle <Kyle.Yunaska@hq.doe.gov>; Mahroum, Eric <Eric.Mahroum@hq.doe.gov>; Matheney, Doug <Doug.Matheney@hq.doe.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: FW: RFS Small Refinery Exemptions

Hi Kyle, Eric and Doug,

Mandy Gunasekara could be available for a 30 minute call on Monday, November 27 at 10:30am.

Please advise if this could work on your end.

Emily

Emily Atkinson
Management Analyst/Office Manager
Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Gunasekara, Mandy
Sent: Wednesday, November 15, 2017 9:09 PM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Cc: Yunaska, Kyle <Kyle.Yunaska@hq.doe.gov>; Mahroum, Eric <Eric.Mahroum@hq.doe.gov>; Matheney, Doug <Doug.Matheney@hq.doe.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: Re: RFS Small Refinery Exemptions

Thanks Alex and Emily.

Kyle- I apologize for the delayed response. I'm just back from Germany and then flying out to North Carolina tomorrow. There may be time on Friday. We'll follow up with specifics.

Best,
Mandy

Sent from my iPhone

On Nov 15, 2017, at 3:46 PM, Dominguez, Alexander
<dominguez.alexander@epa.gov> wrote:

Hey Kyle,

Apologies for missing your below email and thank you for following up. I am looping in Emily Atkinson who will be able to help coordinate a meeting.

Best,
Alex

On Nov 15, 2017, at 8:44 AM, Yunaska, Kyle
<Kyle.Yunaska@hq.doe.gov> wrote:

Hi Mandy, Alex,

I was just checking to see if you may be available to have a DOE/EPA follow-up regarding small refinery exemption waivers.

Thanks,
Kyle

-----Original Message-----

From: Yunaska, Kyle

Sent: Thursday, November 02, 2017 5:36 PM

To: 'Gunasekara.Mandy@epa.gov'

<Gunasekara.Mandy@epa.gov>

Cc: 'Dominguez, Alexander'

<dominguez.alexander@epa.gov>; Mahroum, Eric

<Eric.Mahroum@hq.doe.gov>

Subject: RFS Small Refinery Exemptions

Hi Mandy,

We were hoping to get DOE and EPA in the same room to continue the discussion on RFS small refinery exemption waivers. Would you be available sometime after the 13th?

Talk soon,
Kyle

Appointment

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 11/16/2017 10:28:00 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [harlow.david@epa.gov]; Lewis, Josh [Lewis.Josh@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]
Subject: RFS Small Refinery Exemptions
Location: WJC-N 5400
Start: 11/17/2017 6:30:00 PM
End: 11/17/2017 7:15:00 PM
Show Time As: Busy

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 12/5/2017 4:14:34 PM
Subject: Call with Susan Butler re: small refinery hardship
Attachments: RE FW .msg
Location: Mandy will call Susan on her cell at { **Personal Phone / Ex. 6** }
Start: 12/8/2017 5:00:00 PM
End: 12/8/2017 5:30:00 PM
Show Time As: Busy

Call is scheduled for 12pm EDT

Appointment

From: Washington, Valerie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9D031C02CE3A416DAD0D421EE998D5A3-VWASHING]
Sent: 5/16/2017 2:09:44 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dravis, Samantha [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ece53f0610054e669d9dffe0b3a842df-Dravis, Sam]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Freire, JP [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11603dce40a1499e8e9c17eae000ad1-Freire, Joh]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
CC: Inge, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7f763e42702a4f468cdf42323ee94520-Cinge]; Birgfeld, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3383bc15dd5542e5bff5c3de13ba9bf2-EBIRGFEL]; Graham, Amy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=26722dfde5b34925b0ad9a8dd4aff308-Graham, Amy]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Ringel, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1654bdc951284a6d899a418a89fb0abf-Ringel, Aar]
Subject: Roll-out of the RFS
Attachments: 2018 Prop RFS Vol Roll Out Plan_5 19 17_CLEAN.DOCX; RFS 2018 PR Draft v3.docx
Location: 3500 WJC North
Start: 5/19/2017 5:30:00 PM
End: 5/19/2017 6:00:00 PM
Show Time As: Busy

I've attached the draft roll-out plan from OAR to serve as a starting point for the discussion.



2018 Prop RFS
Vol Roll Out Plan...



RFS 2018 PR
Draft v3.docx

Message

Sent: 11/30/2018 6:41:11 PM
To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: FW: Administrator Wheeler Meeting Follow Up

From: Frye, Tony (Robert)
Sent: Friday, November 30, 2018 1:33 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: FW: Administrator Wheeler Meeting Follow Up

Hey Mandy – Do you have anything in response to James’s follow up?

Also, included Holly and Paige for awareness on appropriations.

Tony Frye
 Special Advisor
 Office of Congressional Affairs
 Environmental Protection Agency
 Cell: 202.603.3225

From: Rice, James (Grassley) <James_Rice@grassley.senate.gov>
Sent: Thursday, November 29, 2018 4:58 PM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Kozeny, Jill (Grassley) <Jill_Kozeny@grassley.senate.gov>; Brandt, Andrew (Grassley) <Andrew_Brandt@grassley.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>
Subject: RE: Administrator Wheeler Meeting Follow Up

Thanks, Tony. We have access to that already. However, there have been many reports that EPA was not following the DOE recommendations, or that when they recommended a partial waiver, EPA granted a full waiver. Also, Administrator Wheeler referenced the appropriation report language, which specifically encourages EPA to give waivers to refineries even if DOE doesn’t recommend one, and seemed to indicate that he felt somewhat bound by it, although he acknowledged that it wasn’t legally binding. Senator Grassley does have an interest in understanding how EPA is making its decisions on granting small refinery waivers as a fundamental matter of congressional oversight.

Can EPA definitively state that it always follows the DOE recommendations to the letter? If not, what are EPA’s criteria for deviating?

Also, I would appreciate some additional clarification about to what degree EPA feels bound by the appropriations report language, which is included by appropriators in a report that the Senate never votes on and never becomes law. If this provision were included in an appropriations bill, Senator Grassley surely would take advantage of opportunities to amend it on the floor, and if it was not amended, I would be inclined to recommend he vote against such a bill. As it stands, Senator Grassley’s vote for any Interior-Environment Appropriations Bill has been on the understanding that he is not necessarily voting for anything included in the accompanying report written by the appropriators. Should he be viewing things differently?

I am very interested in seeing the legal opinion about what is considered confidential business information that Mandy said you could provide. The public surely has a right to know at least who got the waivers. Regardless, for Congress to conduct appropriate oversight, there needs to be some appropriate process to review the waiver applications in full and Senator Grassley would like to pursue how to make that work. It isn't constitutionally appropriate for that to just be a black box.

James Rice
Legislative Director
Office of Senator Charles E. Grassley
135 Hart Senate Office Building
Washington, DC 20510
202-224-3744



From: Frye, Tony (Robert) <frye.robert@epa.gov>
Sent: Thursday, November 29, 2018 4:33 PM
To: Rice, James (Grassley) <James_Rice@grassley.senate.gov>; Kozeny, Jill (Grassley) <Jill_Kozeny@grassley.senate.gov>; Brandt, Andrew (Grassley) <Andrew_Brandt@grassley.senate.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>
Subject: Administrator Wheeler Meeting Follow Up

Hello James, Jill, and Andrew – Thank you for joining the meeting yesterday afternoon with Administrator Wheeler. As mentioned toward the end of the discussion, here is the link to the DOE studies regarding the Small Refinery Exemption: <https://www.epa.gov/renewable-fuel-standard-program/small-refinery-exemption-studies-department-energy>. Specifically, tables 10 and 11 detail the criteria for analyzing conditions likely to lead to disproportionate economic hardship, which can be found on pages 31 to 37.

Please don't hesitate to let us know if you have any further questions. Have a great day!

Best,
Tony

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

Message

From: Gunasekara.Mandy@epa.gov [Gunasekara.Mandy@epa.gov]
Sent: 11/29/2018 11:35:32 AM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
CC: Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]
Subject: Re: Reuters - SRE on hold pending review of DOE scoring?

Deliberative Process / Ex. 5

Sent from my iPhone

On Nov 28, 2018, at 10:01 PM, Hengst, Benjamin <Hengst.Benjamin@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Bunker, Byron
Sent: Wednesday, November 28, 2018 9:12 AM

<https://www.reuters.com/article/us-usa-biofuels-waivers-exclusive/exclusive-epa-refinery-biofuel-waiver-program-on-hold-pending-review-sources-idUSKCN1NX1D9>

NEW YORK (Reuters) - The Trump Administration has temporarily frozen a program meant to exempt small oil refineries in financial distress from the U.S. biofuels law, as it reviews the scoring system to evaluate applications, according to two sources familiar with the matter.

The review means changes are likely to the program, which has become a lightning rod of controversy between the rival oil and corn industries since the Environmental Protection Agency vastly increased the number of waivers for last year.

Under the U.S. Renewable Fuel Standard, oil refiners must increasingly blend biofuels like corn-based ethanol into their fuel each year or purchase blending credits from those that do. The regulation was passed in 2005 to help farmers and cut fuel imports.

But small oil refineries can be exempted from the standard if they prove that compliance would cause disproportionate hardship. The EPA granted 29 such waivers for the 2017 compliance year, up from 14 in 2015 and 20 in 2016.

The biofuels industry and lawmakers representing farm states have argued that the expansion hurt farmers by eroding demand for ethanol and want the program halted. But refiners consider the program a lifeline to small facilities and have won lawsuits accusing the EPA of being too stingy with waivers.

The two sources, who requested anonymity to discuss the matter, said over the past week that the Trump administration was delaying consideration of any new waivers while the Department of Energy reviews its scoring system for applications. The department evaluates waiver requests and provides recommendations to the EPA.

That has placed on hold seven applications for the 2017 compliance year, and 15 applications for the 2018. Typically, the EPA waits until the latter half of the year to begin reviewing applications because applicants need to demonstrate financial hardship using hard figures for their facilities.

An EPA official confirmed the review. "I think what DOE needs to do is tighten up their approach and we need to do the same," said the official, who asked not to be named. "I honestly don't know where they'll end up and whether they're going to make any changes at all."


Byron Bunker
Director Compliance Division
Office of Transportation and Air Quality
Environmental Protection Agency
2000 Traverwood Drive
Ann Arbor, MI 48105
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Phone: (734) 214-4155
Mobile: (734) 353-9623

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/20/2018 9:38:25 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]; Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: Calendar + Materials for Friday
Attachments: Upcoming RFS Actions and Implications for Wheeler v6.pptx; ATT39926; ATT47467; ATT38742; ATT49573; ATT56025; ATT73817; ATT83137; ATT76192; ATT72223; ATT08843; ATT81021; ATT40573; ATT77466; ATT52969; ATT94112; ATT55836

December 2018

▲ Fri, Dec 21

<input type="checkbox"/>	All Day	Josh in at 1 pm
<input type="checkbox"/>	All Day	On Leave: Mandy Gunasekara, Alex Dominguez, Betsy Shaw, Peter Tsirigotis, Emily Atkinson, Sabrina Hamilton, Kati Stevens
<input type="checkbox"/>	Before 8:00 AM	Free
<input type="checkbox"/>	8:00 AM – 9:30 AM	Free
<input type="checkbox"/>	9:30 AM – 10:00 AM	Management Roundtable
<input type="checkbox"/>	10:00 AM – 10:30 AM	HOLD For Possible Call w/ OMB re: MATS
<input type="checkbox"/>	10:30 AM – 11:00 AM	Administrator Briefing: RFS
<input type="checkbox"/>		
<input type="checkbox"/>		Upcoming RFS Actions and Impl...
<input type="checkbox"/>	11:00 AM – 2:00 PM	Free
<input type="checkbox"/>	2:00 PM – 2:45 PM	Scheduling Meeting
<input type="checkbox"/>	2:45 PM – 4:30 PM	Free
<input type="checkbox"/>	4:30 PM – 5:15 PM	Bi-weekly check-in with OGC



After 5:15 PM Free

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 12/20/2018 1:56:40 PM
To: OAR Briefings [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2da922b09b7a4a18a19571005bff0297-OAR Briefin]
CC: Burch, Julia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=27b0cd43b0404bab89aef0c8d08c165f-Burch, Julia]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: Final materials for 10 am fuels weekly
Attachments: Upcoming RFS Actions and Implications for Wheeler v4.pptx; 2018.12.20 PA Waiver Request options.docx; EPA Letter to Gov. Wolf Jan 2018.pdf; Agenda for Fuels Weekly with OAR 12-20-18.docx

I am re-attaching the agenda, but it's identical to the one we sent last night. – Ben

Message

From: Graham, Cheryl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC456030F1A7475397AFE7895933BAEC-CGRAHAM]
Sent: 12/19/2018 1:16:16 PM
To: Harnett, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=437834c4b30541d2beb0386cc3d0e253-WHARNETT]; Tsirigotis, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c179f3ccb4fadb48e3ae85563f132-PTSIRIGO]; Henigin, Mary [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cbe828e291f4facb492fc28261db45f-MHenigin]; Davis, Alison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1c309f42d5d44d18a52b027bd0112778-ADAVIS06]; Montoro, Marta [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02244a49b2b14d77b2a9e749dd87f704-MMONTORO]; Schillo, Bruce [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a71c3eb16aeb4bd2a0b3e1c950c44111-Bschill]; Holmes, Carol [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a63f745584114ae9b119547a4dc845fd-Holmes, Carol]; Mazakas, Pam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fde3017279c64e3ebff1ad7dc5d5b835-Pmazakas]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; South, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ead249df78840c9928874ec2ec4f9a6-PSouth]; Lipshultz, Jon (ENRD) [Jon.Lipshultz@usdoj.gov]; Wood, Anna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39055f080135414ca3b8c18d4f578755-AWood02]; Edwards, Crystal [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0d40b5f15b2a4c438f44bbae579d829a-Edwards, Crystal]; Mathias, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4be52cdccca348eeb5cd1efeb6caf24-SMATHIAS]; Chapman, Apple [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c52a18bcf6164b6d9f04545db694cac1-ACHAPMAN]; South, Mia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ffac1c6273e4b439a0852a1159885ca-South, Mia]; Cortelyou-Lee, Jan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=75b1eec7b16e46d5b9114935fc6a771e-JCORTELY]; Smith, Kristi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed7a08d522c54f2fa8387a7b5771d8d5-Smith, Kristi]; Iglesias, Amber [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed1da89f33f24b5b9f2c4b9bcf91a2ad-Iglesias, A]; Schachter, Scott (ENRD) [Scott.Schachter@usdoj.gov]; Doyle, Andrew (ENRD) [Andrew.Doyle@usdoj.gov]; leslie.hill@usdoj.gov [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user01591315]; Maghamfar, Dustin (ENRD) [Dustin.Maghamfar@usdoj.gov]; Mitchell, Ken [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e49335e2f5a64cbfa97c39cbf1faff2b-Mitchell, Kenneth]; Wortman, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a6a4541680f4c89adaf1198de1925c4-Wortman, Eric]; Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]; Purdy, Angeline (ENRD) [Angeline.Purdy@usdoj.gov]; Debra Carfora [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user02767177]; Perez, Idalia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03b7a08fdbe4934911f17550d78491d-IPEREZ]; martha.mann@usdoj.gov [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user07624bb3]; Dunham, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David
 [/o=ExchangeLabs/ou=Exchange Administrative Group
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 [/o=ExchangeLabs/ou=Exchange Administrative Group
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 [/o=ExchangeLabs/ou=Exchange Administrative Group
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 [/o=ExchangeLabs/ou=Exchange Administrative Group
 (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Srinivasan, Gautam
 [/o=ExchangeLabs/ou=Exchange Administrative Group
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 [/o=ExchangeLabs/ou=Exchange Administrative Group
 (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]; McLamb, Marguerite
 [/o=ExchangeLabs/ou=Exchange Administrative Group
 (FYDIBOHF23SPDLT)/cn=Recipients/cn=85f0f472928e4767965c94e609fedc45-McLamb, Marguerite]; Koerber, Mike
 [/o=ExchangeLabs/ou=Exchange Administrative Group
 (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c513901d4fd49f9ab101a6f7a7a863e-Koerber, Mike]

Subject: ARLO Deadline Calendar for the week of December 17, 2018

Attachments: 18-12-17 ARLO Deadline Calendar.docx

Attached is the current deadline calendar and other information that is sent out weekly from ARLO. If information in the attachment raises questions, please contact Gautam Srinivasan. Thanks

Cheryl R. Graham
 OGC/ARLO
 (202) 564-5473

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 12/17/2018 3:57:44 PM
To: Lubetsky, Jonathan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e125d09a658e48119789ccae5712b4a5-JLUBETSK]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]
CC: Shoaff, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac16fb09cf2c44adb34a7405dc331532-JShoaff]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Mroz, Jessica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=64b0c7f807df436a9b40ce52f7dec34c-Mroz, Jessi]; Hockstad, Leif [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a4fb1f8930645efa34fdfa7485bc6da-LHOCKSTA]
Subject: RE: Draft Administrator Nomination One-Pagers for OAR IO Review
Attachments: dshQuick-Start Turbines.docx; dshRFS-Biodiesel.docx; dshRFS-E15 and RIN Mkt Reform.docx; dshRFS-General.docx; dshRFS-Reallocation of RINs Opposing Reallocation.docx; dshRFS-Reset Rule.docx; dshRFS-RIN Costs.docx; dshRFS-Small Refinery Exemptions.docx; dshSAFE-CAFE.DOCX; dshAircraft GHG.DOCX; dshCleaner Trucks Initiative.docx; dshNCA4.docx; dshParity for Natural Gas Vehicles with Electric Vehicles.docx

Attached are 13 more of the one-pagers. As with the first batch of 12, sent this past Friday, **Deliberative Process; ACP / Ex. 5** but have in each instance renamed the document so as to include my initials, for the sake of identification and accountability.

Deliberative Process; ACP / Ex. 5

David S. Harlow
 Senior Counsel
 Immediate Office of the Assistant Administrator
 Office of Air and Radiation, USEPA
 WJC-N Room 5409K

1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Harlow, David
Sent: Friday, December 14, 2018 12:56 PM
To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Shoaff, John <Shoaff.John@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Mroz, Jessica <mroz.jessica@epa.gov>; Hockstad, Leif <Hockstad.Leif@epa.gov>
Subject: RE: Draft Administrator Nomination One-Pagers for OAR IO Review

Jonathan,

Attached are 12 of the one-pagers, **Deliberative Process; ACP / Ex. 5** Some I did not revise at all, but even in the case of those I have saved each with a document name that begins with my initials, by way of identification and accountability.

Deliberative Process; ACP / Ex. 5

Clint has in process, as I understand it, a number of the other papers. He and I have divvied up the remainder, and I'm looking to turn to the batch left to me next.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K

1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Lubetsky, Jonathan

Sent: Tuesday, December 11, 2018 1:21 PM

To: Lewis, Josh <Lewis.Josh@epa.gov>; Harlow, David <harlow.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Shoaff, John <Shoaff.John@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Mroz, Jessica <mroz.jessica@epa.gov>; Hockstad, Leif <Hockstad.Leif@epa.gov>

Subject: Draft Administrator Nomination One-Pagers for OAR IO Review

Good afternoon,

Deliberative Process; ACP / Ex. 5

OCIR asked for these materials by **COB Friday, December 14th**. As a reminder, they are also asking for Q&As on each topic. We are aware that OCIR may already have compiled some, and whoever attends the briefing may also be prepared to ask questions. However, please let us know if you would like any assistance in drafting. Please send any edits/ comments to Jessie Mroz, John Shoaff and me by **noon on Friday December 14th**.

Thank you,
Jonathan Lubetsky

Message

From: Whitfield, Peter [pwhitfield@sidley.com]
Sent: 12/14/2018 2:23:27 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Small Refinery Ex. and Demand Destruction
Attachments: Demand Destruction Article.pdf

Mandy,

I am sure you get flooded all the time with articles, but this last one authored by Steve Irwin yesterday is really interesting. Despite being regarded as being pro-ethanol, he concludes that the Small Refinery Exemptions are not impacting the blend rate for E10. I figured you would find it interesting.

PETER WHITFIELD

Counsel

SIDLEY AUSTIN LLP

1501 K Street, N.W.
Washington, DC 20005
+1 202 736 8531
pwhitfield@sidley.com
www.sidley.com

SIDLEY

This e-mail is sent by a law firm and may contain information that is privileged or confidential.
If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.



National Biodiesel Board 605 Clark Ave. PO Box 104898 Jefferson City, MO 65110-4898 (800) 841-5849 <i>phone</i> (573) 635-7913 <i>fax</i>	National Biodiesel Board 1331 Pennsylvania Ave., NW Suite 505 Washington, DC 20004 (202) 737-8801 <i>phone</i> www.biodiesel.org
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October 17, 2018

The Hon. Andrew Wheeler
 Administrator
 Environmental Protection Agency
 Office of the Administrator, 1101A
 1200 Pennsylvania Avenue, N.W.
 Washington, D.C. 20460

Dear Acting Administrator Wheeler,

The biodiesel industry is grateful for your initiative to increase transparency around the RFS program. However, I urge your consideration of the biodiesel and renewable diesel industry's need for additional market space under the Renewable Fuel Standard program. Further, I would like to make you aware of the acute, negative impact of small refinery exemptions on our industry.

EPA's newly posted data quantifies the ongoing demand destruction for biodiesel stemming from the small refinery exemptions.

In early June this year, the National Biodiesel Board estimated the damage to the biodiesel market to exceed 300 million gallons. EPA's Public Data for the Renewable Fuel Standard website now displays estimates of the gallons of gasoline and diesel and the Renewable Volume Obligations (expressed in RINs) exempted each year since 2013. With that data, it is easy to calculate the minimum gallons of biomass-based diesel exempted. We also know that biomass-based diesel is used to meet more than 90 percent of the annual Advanced Biofuel RVO, in part because each gallon of biodiesel and renewable diesel earns on average 1.54 RINs. Between 2015 and 2017, the demand destruction for biomass-based diesel is more than 300 million gallons.

Compliance Year	Exempt Fuel (million gallons)	Advanced RVO (%)	Advanced RVO (million RINs)	Biomass-based Diesel Impact (million gallons)
2015	3,070	1.62	49.7	29
2016	7,840	2.01	157.6	91
2017	13,620	2.38	324.2	189
Total				309

EPA's recently released data confirms our estimate of lost gallons. We can also see from the data that exempted refiners rolled forward millions of RINs to meet 2017 obligations, freeing up 2017 RINs for 2018 compliance and thereby destroying demand for biodiesel this year.

www.biodiesel.org

Independent analysis further substantiates the demand destruction for biodiesel and renewable diesel. Professor Scott Irwin, Laurence J. Norton Chair of Agricultural Marketing at the University of Illinois, estimates that biomass-based diesel RIN generation is 489 million gallons (16.3 percent) lower in 2018 than it would have been without the small refinery exemptions.¹ Professor Irwin concludes that because the RFS is binding for biomass-based diesel, the retroactive exemptions directly reduce biodiesel use.

The biodiesel industry asks EPA to set the 2020 biomass-based diesel volumes at a level (2.8 billion gallons) that supports our demonstrated ability to produce fuel. Moreover, we ask the agency to fully account for the small refinery exemptions when setting the annual standards. EPA must end the demand destruction for biodiesel – not as part of a deal to change the RFS rules; rather, as an integral part of the agency's duty to ensure that the RFS volumes it sets are met.

Sincerely,



Kurt Kovarik
Vice President, Federal Affairs
National Biodiesel Board
1331 Pennsylvania Ave., NW
Suite 505
Washington, D.C. 20004

¹ Prof. Scott H. Irwin, "The State of the RFS," presented at OPIS RFS2, RINs & Biodiesel Forum, Chicago, Oct. 2, 2018.

Message

From: Hupp, Sydney [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D50089FF1A5B4C83BAA0160AFE2C33CB-HUPP, SYDNE]
Sent: 4/17/2017 6:14:12 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: FW: Request for Meeting with Administrator Pruitt

Another one that Ryan has asked me to pass your way. I'm sorry!!

Sydney Hupp
 Office of the Administrator- Scheduling
 202.816.1659

From: Hughes, Krista (Perkins Coie) [mailto:KHughes@perkinscoie.com]
Sent: Monday, April 17, 2017 1:58 PM
To: Hupp, Sydney <hupp.sydney@epa.gov>
Cc: Johnson Koch, LeAnn M. (Perkins Coie) <LeAnnJohnson@perkinscoie.com>
Subject: FW: Request for Meeting with Administrator Pruitt

Ms. Hupp,

I am following up on the email below regarding my request for a meeting between the Small Refiners Coalition ("Coalition") and Administrator Pruitt to discuss EPA's Renewable Fuel Standard ("RFS") program. Please let me know what dates Administrator Pruitt is available for a meeting and I will propose those dates to the Coalition members.

Thank you,
 Krista

Krista Hughes | Perkins Coie LLP
 ASSOCIATE
 700 Thirteenth Street, N.W. Suite 600
 Washington, DC 20005-3960
 D: +1.202.654.6309
 F: +1.202.654.9969
 E: KHughes@perkinscoie.com

From: Hughes, Krista (WDC)
Sent: Monday, April 10, 2017 3:02 PM
To: 'hupp.sydney@epa.gov'
Cc: Johnson Koch, LeAnn M. (WDC)
Subject: Request for Meeting with Administrator Pruitt

Ms. Hupp,

I am writing on behalf of the Small Refiners Coalition ("Coalition") to request a meeting with Administrator Pruitt to discuss EPA's Renewable Fuel Standard ("RFS") program. The Coalition is a group of nine small refinery owners that are adversely impacted by the RFS. Please let me know what dates Administrator Pruitt is available for a meeting and I will propose those dates to the Coalition members.

Please let me know if you need any additional information from me.

Thank you very much,
 Krista

Krista Hughes | Perkins Coie LLP
 ASSOCIATE
 700 Thirteenth Street, N.W. Suite 600

Washington, DC 20005-3960
D: +1.202.654.6309
F: +1.202.654.9989
E: KHughes@perkinscoie.com

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Message

From: Haman, Patricia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0EBB27CD881D41B19A30A491DC3F3F57-PHAMAN]
Sent: 4/7/2017 5:01:43 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Fwd: CRS inquiry: RFS small refinery exemption
Attachments: RFS small refinery hardship CRS inquiry final.docx; ATT00001.htm

Sorry!

Sent from my iPhone

Begin forwarded message:

From: "Haman, Patricia" <Haman.Patricia@epa.gov>
Date: April 7, 2017 at 12:25:59 PM EDT
To: "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Bennett, Tate" <Bennett.Tate@epa.gov>, Mandy Gunasekara <Mandy_Gunasekara@epw.senate.gov>
Subject: **Fwd: CRS inquiry: RFS small refinery exemption**

Sent from my iPhone

Hi Everyone, Attached are the draft responses to a CRS inquiry we received regarding small refinery hardship waiver exemptions. I pasted in the original request fyi.

The responses were developed by OTAQ and OGC.

If you believe Troy needs to review these, please forward them to him. I am trying not to inundate him.

Please let me know if you have any questions.

Thank you, Pat

Patricia Haman

Office of Congressional Affairs

U.S. EPA

202-564-2806

Original request:

I hope all is well. I'm working on a request for a staffer about the small refinery exemption and could use some clarification from EPA. A response by this Friday March 31st COB would be greatly appreciated.

I've reviewed the eCFR ([§80.1407](#), [§80.1441](#), and [§80.1442](#)), [42 USC 7545\(o\)\(3\)\(C\)\(ii\)](#), [42 USC 7545\(o\)\(9\)\(C\)](#), as well as the small refineries and small refiners section of the [2017 final rule](#) and other related documents.

<!--[if !supportLists]-->• <!--[endif]-->When EPA grants an exemption to a small refinery, what happens to the RVO for that year when the exemption was granted? What happens to the RVO for the following year?

<!--[if !supportLists]-->• <!--[endif]-->When EPA grants an exemption to a small refinery, is the small refinery able to accept or sell any RINs it may come to be in possession of?

<!--[if !supportLists]-->• <!--[endif]-->How many small refinery exemptions has EPA granted each year from 2013-2016?

<!--[if !supportLists]-->• <!--[endif]-->What is the order of magnitude of small refinery exemptions on the RVO? Do small refinery exemptions account for less than 1% of the RVO? 10%? 20%?

<!--[if !supportLists]-->• <!--[endif]-->Is small refinery exemption data specific to each compliance period (or year) available to the public?

I'm always willing to chat on the phone if it's easier to respond that way.

Thanks,

Kelsi

Kelsi Bracmort, Ph.D.

Specialist, Agricultural Conservation and Natural Resources Policy

Congressional Research Service

Phone: 202-707-7283

Fax: 202-707-7289

Email: kbracmort@crs.loc.gov

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Message

From: Dunham, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A9444681441E4521AD92AE7D42919223-SDUNHAM]
Sent: 3/31/2017 12:12:06 AM
To: Weekly Report Group [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0f8a89464c5e435c87b7375ffe506c1a-Weekly Repo]
CC: Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: OAR Weekly Report
Attachments: OAR WEEKLY REPORT3_30_2017.docx; ATT00001.htm

Please see attached.

Message

From: Susan Butler [sbutler@capitolresourcesllc.com]
Sent: 3/30/2017 7:44:26 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: RE: small refinery hardship waivers

Me again. Please let me know anything you can re: potential for delay in decision...thanks. Susan

From: Susan Butler
Sent: Thursday, March 30, 2017 11:00 AM
To: 'gunasekara.mandy@epa.gov' <gunasekara.mandy@epa.gov>; 'gunasekara.amanda@epa.gov' <gunasekara.amanda@epa.gov>
Subject: small refinery hardship waivers

Morning! I am guessing at your EPA email address...hoping one works! I can only imagine what your week has been like, but if you have 5 minutes, can you please give me a call on my cell Personal Phone / Ex. 6 re: these 2016 applications? Many thanks, Susan

Susan Butler
Capitol Resources LLC
915 Prince Street
Alexandria, VA 22314
(703)739-5860 (office)

Personal Phone / Ex. 6

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 3/29/2017 2:18:21 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Dunham, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: RFS small refinery incoming petitions

Hi Mandy—in separate emails, I'll be sending you the incoming petitions, per your request. Thanks, Ben

Message

From: Dunham, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A9444681441E4521AD92AE7D42919223-SDUNHAM]
Sent: 3/23/2017 9:54:02 PM
To: Weekly Report Group [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0f8a89464c5e435c87b7375ffe506c1a-Weekly Repo]
CC: Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; Gunasekara, Amanda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Heard, Anne [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d59cb51e917143c8aa336b51200aca2f-Heard, Anne]
Subject: OAR Weekly Report (in text and attached)
Attachments: OAR WEEKLY REPORT for Thursday March 23.docx

OAR WEEKLY REPORT

March 23, 2017

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Dunham, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A9444681441E4521AD92AE7D42919223-SDUNHAM]
Sent: 3/23/2017 1:31:10 AM
To: Gunasekara, Amanda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
Subject: Fwd: AFPM request to delay the RFS 2016 compliance deadline
Attachments: AFPM Compliance Delay Request briefing document 3.4.17.docx; ATT00001.htm; AFPM incoming 2016 RFS request to delay compliance 022417 final.pdf; ATT00002.htm

Hi Mandy- Attached is a fairly thorough backgrounder -- which I believe answers the questions you raised on the AFPM request to delay the compliance date -- as well as the incoming letter from AFPM. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 10/4/2018 7:51:34 PM
To: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: Re: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

Christian,

No worries from my point of view.

Deliberative Process / Ex. 5

Sent from my iPhone

On Oct 4, 2018, at 3:46 PM, Palich, Christian <palich.christian@epa.gov> wrote:

Thanks David. Mandy and I just did a call with them and sorted it out.

They are cleared now. Sorry for the hassle!

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: 202.306.4656
E: Palich.Christian@epa.gov

From: Harlow, David
Sent: Thursday, October 4, 2018 3:44 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

Deliberative Process; ACP / Ex. 5

Deliberative Process; ACP / Ex. 5

* * * *

<image002.png>

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Gunasekara, Mandy
Sent: Thursday, October 4, 2018 2:43 PM
To: Woods, Clint <woods.clint@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>;
Dominguez, Alexander <dominguez.alexander@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: RE: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

So harlow is looped in too:

Deliberative Process / Ex. 5

From: Woods, Clint
Sent: Thursday, October 4, 2018 2:27 PM
To: Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Palich, Christian <palich.christian@epa.gov>;
Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>;
Harlow, David <harlow.david@epa.gov>
Subject: Re: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

+ Harlow

On Oct 4, 2018, at 2:21 PM, Frye, Tony (Robert) <frye.robert@epa.gov> wrote:

Hello All – Additional follow up from OMB:

22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.

- a. <!--[if !supportLists]--><!--[endif]-->When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.
- b. <!--[if !supportLists]--><!--[endif]-->How many individual facilities in the country were considered a "major source" under Section 112 on January 24, 2018?
- c. <!--[if !supportLists]--><!--[endif]-->Please identify, as of January 24, 2018, how many of the "major source" facilities identified in question 1(b) had complied with one or more MACT standards with the result being the source no longer emits more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of hazardous air pollutants? Please group these facilities by source categories (for example, there were X number of chemical plants meeting a MACT standard that resulted in lower emissions than the major source threshold).
- d. <!--[if !supportLists]--><!--[endif]-->Please provide state-by-state data and a national total for facilities identified in 1(c)
- e. <!--[if !supportLists]--><!--[endif]-->Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA's decision to revoke the "once in, always in" policy.
- f. <!--[if !supportLists]--><!--[endif]-->How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the "once in, always in" policy?
- g. <!--[if !supportLists]--><!--[endif]-->Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.

- h. <!--[if !supportLists]--><!--[endif]-->Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

Deliberative Process / Ex. 5

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 3:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

I like that better. OCIR, I incorporated Justin's suggestion in the below. Clint – anything else?

From: Schwab, Justin
Sent: Tuesday, October 2, 2018 3:40 PM
To: Palich, Christian <palich.christian@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Deliberative Process; ACP / Ex. 5

From: Palich, Christian
Sent: Tuesday, October 2, 2018 12:58 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Thanks Mandy!

Justin/Clint, trying to get this back to OMB today, you ok with below?

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: 202.306.4656
E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 10:15 AM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

My edits and responses to OMB are included below. Clint – anything on your end? Also,

Deliberative Process; ACP / Ex. 5

Once Justin/Clint sign off, this is good to go.

Thanks!

From: Frye, Tony (Robert)
Sent: Thursday, September 27, 2018 12:29 PM
To: Woods, Clint <woods.clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Administrator Wheeler EPW Hearing QFRs OMB Passback

Hello Air Team – OMB reviewed Administrator Wheeler’s QFR responses from his EPW hearing on 8.1.2018 and had the following questions and feedback. Let us know if you have any responses or updates by noon tomorrow, 9.28.2018, so we can get them back for review by Administrator Wheeler this weekend. Thank you in advance!

2. On June 29, 2018, EPA published a report entitled, “Biofuels and the Environment: Second Triennial Report to Congress.” The report documents how activities associated with biofuel production and use have negatively affected the environment. Specifically, it shows how activities associated with biofuel production and use have reduced air quality, polluted waters, destroyed wildlife habitat and ecosystems, and depleted already stressed aquifers. Has EPA evaluated how a RVP waiver for fuels with more than ten percent ethanol would affect demand for biofuel feedstocks and the use of biofuels, and, in turn, make the impacts to the environment worse? If not, will EPA do so before issuing a RVP waiver for these fuels?

Deliberative Process / Ex. 5

3. EPA is currently taking public comment on its proposed renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020. EPA issued this proposal three days before issuing its second triennial report to Congress on biofuels and the environment.
 - a. How does EPA plan to incorporate the findings of its second triennial report into the final renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020?

Deliberative Process / Ex. 5

- b. Will EPA seek to mitigate the impacts to the environment, as documented in the second triennial report, in its final volume obligations for 2019 and 2020, respectively?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

21. During the development of the “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26 Passenger Cars and Light Trucks”, EPA officials met with OMB and NHTSA officials to convey their concerns about the proposal several times. They left numerous documents with OMB officials that are now part of the rulemaking docket^[1]. These documents indicate that there are significant problems with the model that was used by NHTSA to develop the proposal to freeze fuel economy and greenhouse gas tailpipe standards from 2020-26. One such example is a document titled “Email_5_-_Email_from_William_Charmley_to_Chandana_Achanta_-_June_18,_2018%20(1).pdf”. This 122 page long document includes a number of PowerPoint presentations EPA made to OMB and NHTSA staff along with additional documentation and analysis.

- a. <!--[if !supportLists]--><!--[endif]-->The document notes that “EPA analysis to date shows significant and fundamental flaws in CAFE model (both the CAFE version and the “GHG version”).... These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards.” Do you believe that each of these flaws were fully remedied before the rules were proposed? If so, please list the specific remedies that addressed each of EPA’s concerns. If not, will you ensure that all necessary technical input from EPA’s Office of Transportation and Air Quality is incorporated into the final rule in order to ensure that the rule cannot be successfully over-turned in court on grounds that the model on which it is based is significantly or fundamentally flawed?
- b. <!--[if !supportLists]--><!--[endif]-->One of the main contributors to the NHTSA conclusions that the augural standards would cause thousands of additional deaths is NHTSA’s “consumer choice” module, which asserts that making the fleet more fuel efficient will cause people to keep their less safe, older vehicles for longer, and that this will mean there are more unsafe vehicles on the road (because newer vehicles have more safety technologies). The

^[1] <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

document states that EPA believed this NHTSA model was flawed, because it predicts an additional 26 million non-existent vehicles would be in the 2016 fleet and 46 million additional non-existent vehicles in the 2030 fleet. For context, this would represent a 15-20% increase in registered vehicles. The document also notes that this problem appeared to be un-remedied several months after EPA first raised it. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- c. <!--[if !supportLists]--><!--[endif]-->The document also found that NHTSA's consumer choice model predicts an unexplained, and apparently fictitious 10-15% increase in vehicle miles traveled (VMT). Specifically, the model somehow predicts people will drive an extra 239 billion miles in 2016 and 302 billion more miles in 2030. The increased deaths associated with higher efficiency standards in the NHTSA model are highly correlated to VMT (more driving equals more accidents equals more deaths). It would thus seem that EPA believes that the NHTSA safety numbers are predicated on an entirely fictitious driving scenario. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- d. <!--[if !supportLists]--><!--[endif]-->The document also notes that NHTSA does not accurately model the manner in which automobile manufacturers trade credits as part of their compliance strategies, observing that NHTSA does not assume that compliance credits are traded between manufacturers' car and truck fleets (which is what manufacturers currently do), and that this has the effect of over-estimating compliance costs. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- e. <!--[if !supportLists]--><!--[endif]-->The document observes that NHTSA's model overestimates the costs of particular technologies compared to their actual costs and use in the real world. The model also reportedly selects the most expensive technology packages to meet the standards, which overestimates the most cost-effective ways to do so by \$1-2,000 per vehicle. Do you agree that manufacturers would be more likely to select the most cost-effective set of technologies with which to meet standards, rather than the least cost-effective set of technologies? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- f. <!--[if !supportLists]--><!--[endif]-->The document stated that the NHTSA model omitted the benefits of some fuel-efficient technologies entirely, while others were erroneously inputted into the model. For example, ‘start/stop’ technology, a technology that causes engines to automatically shut off while vehicles are stopped in traffic (and thus use no fuel), is estimated to have a negative effect on fuel-efficiency, which is simply not plausible. Were these problems remedied in the proposed rule? If so, how? If not, will you ensure that they are remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- g. <!--[if !supportLists]--><!--[endif]-->The document observed that NHTSA’s model appears to add vehicle miles travelled in unexplained ways. For example, it observed that as many as 25 billion more miles of driving were predicted in a given year, even when the rebound effect (a measure of how much extra driving consumers are expected to do as a result of having more fuel-efficient vehicles) was set to 0 percent. The document observes that NHTSA’s model actually predicts *less* driving when the rebound effect was set to 20 percent (meaning 20% more driving by consumers in more fuel-efficient vehicles would have been included in the model) than when it was kept to 0 percent. This suggests that NHTSA’s model is incapable of predicting anything accurately, separate and apart from whether one agrees with its policy premise. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- h. <!--[if !supportLists]--><!--[endif]-->The document states that NHTSA’s “Proposed standards are detrimental to safety, rather than beneficial” once NHTSA’s modeling errors were corrected. In fact, EPA found that the proposed standards result in “an average increase of 17 fatalities per year in VYs 2036-2045” relative to the current standards. Do you agree with this conclusion? If not, why not?
- i. <!--[if !supportLists]--><!--[endif]-->The document states that the NHTSA model projects that the current standards result in 8,000 fewer new automobiles sold annually in CYs 2021-2032, but that the used vehicle fleet would grow by 512,000 vehicles per year. That means that for every new fuel-efficient vehicle that consumers do not purchase (because NHTSA predicts their costs will be too high), somehow an additional 60 used vehicles will remain in the fleet. Do you agree that this scenario is simply implausible in the real world, as the EPA document points out? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- j. <!--[if !supportLists]--><!--[endif]-->In draft comments submitted to OMB on June 29, EPA commented that more than 90% of the net benefits for which the proposed rule to freeze fuel economy and greenhouse gas tailpipe standards takes credit are in fact benefits associated with vehicles manufactured prior to 2021. EPA attributed this to NHTSA's flawed consumer choice model, and questioned whether these could technically be attributable to the actual post-2021 rule. What would the net benefits of the preferred alternative— and for each of the other seven alternatives included in the NPRM — be if the agencies were to compare the costs to the benefits of cars manufactured within the MY 2021-29 cohort timeframe?

Deliberative Process / Ex. 5

22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the “once in, always in” policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the “once in, always in” policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.
- a. When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.
 - b. <!--[if !supportLists]--><!--[endif]-->How many individual facilities in the country were considered a “major source” under Section 112 on January 24, 2018?

- c. <!--[if !supportLists]--><!--[endif]-->Please identify, as of January 24, 2018, how many of the “major source” facilities identified in question 1(b) had complied with one or more MACT standards with the result being the source no longer emits more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of hazardous air pollutants? Please group these facilities by source categories (for example, there were X number of chemical plants meeting a MACT standard that resulted in lower emissions than the major source threshold).
- d. <!--[if !supportLists]--><!--[endif]-->Please provide state-by-state data and a national total for facilities identified in 1(c)
- e. <!--[if !supportLists]--><!--[endif]-->Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA’s decision to revoke the “once in, always in” policy.
- f. <!--[if !supportLists]--><!--[endif]-->How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the “once in, always in” policy?
- g. <!--[if !supportLists]--><!--[endif]-->Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
- h. <!--[if !supportLists]--><!--[endif]-->Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

25. During the August 1, 2018 EPW hearing, you fielded several questions from my colleagues on the Renewable Fuel Standard (RFS). Several times you mentioned that under your leadership, EPA would focus more on transparency when it comes to implementing the RFS program. This is welcome news since I've tried to get EPA to take this step for years. However, I am concerned that you may only be focused on transparency when it comes to the small refinery waiver process and not the entire program. I remain concerned about the volatility in the RFS compliance trading system used by EPA, known as the Renewable Identification Number (RIN) market, and believe market transparency is a big part of the solution.

- a. <!--[if !supportLists]--><!--[endif]-->In your answers, you talked about creating a dashboard –without disclosing proprietary information – on who is getting the small refinery waivers and why. Can you discuss further what this dashboard may look like and a timeline on when it may be released?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

- b. <!--[if !supportLists]--><!--[endif]-->The State of California has created a dashboard to provide weekly, monthly, quarterly and annually trading data for its own renewable fuel program. After talking to many stakeholders involved in that process, it seems that California's renewable fuel trading dashboard has been able to provide valuable insight into trading and helped reduced market volatility. EPA could implement something similar for the RFS RIN trading market. Is EPA considering a RIN dashboard that provides the public weekly, quarterly and annual RIN trading data? If not, why not?

Deliberative Process / Ex. 5

- c. <!--[if !supportLists]--><!--[endif]-->What further transparency measures is the EPA considering regarding the RFS program?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

32. Administrator Wheeler, during questioning, I discussed with you small refinery exemptions awarded to petitioners for the reason of disproportionate economic hardship. When EPA conducts its analysis to determine disproportionate economic hardship, please clarify if the EPA compares the high cost of compliance to only small refiners (those that produce 75,000 barrels of crude per day) or if the EPA compares the high cost of compliance to the entire refining industry.

Deliberative Process / Ex. 5

39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

65. As you know, many of former Administrator Pruitt's proposed rulemakings have generated lawsuits from outside groups due to their questionable legality. You recognized the questionable legality of at least one of these rules in reversing former Administrator Pruitt's decision to lift the sales limits on so called "glider trucks." Given that many of former Administrator Pruitt's rules and proposed rulemakings were based on the same questionable legal ground as the glider trucks rule, please describe your plan, including a timeline, for withdrawing all other proposed rulemakings signed by former Administrator Pruitt.

Deliberative Process / Ex. 5

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

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Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 10/4/2018 7:43:35 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]
CC: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: RE: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

Deliberative Process; ACP / Ex. 5

* * * *

Agenda Review Report 2060-AU03 (EPA/OAR)**Date:** 10/03/2018**TITLE:**Treatment of Biogenic CO₂ Emissions Under the Clean Air Act Permitting Programs**RIN:** 2060-AU03 (Long-Term Actions)**# Paper Print:** No**# REGULATORY PLAN:** No**PRIORITY:** Other Significant
Major status under 5 USC 801 is undetermined**# UNFUNDED MANDATES:** No**EO 13771 Designation :** Other**LEGAL AUTHORITY:**

Not Yet Determined

CFR CITATION:

Not Yet Determined

LEGAL DEADLINE:

None

None

OVERALL DESCRIPTION OF DEADLINE:**ABSTRACT:**

This proposed action will establish the treatment of biogenic carbon dioxide (CO₂) emissions from the use of certain biomass feedstocks at stationary sources under the Prevention of Significant Deterioration (PSD) and title V permitting programs. The proposed action will be based on the Agency's policy regarding the treatment of biogenic CO₂ emissions under the Clean Air Act.

STATEMENT OF NEED:**SUMMARY OF LEGAL BASIS:****ALTERNATIVES:****ANTICIPATED COSTS AND BENEFITS:****RISKS:****TIMETABLE:**

ACTION	DATE	FR CITE
NPRM	12/00/2019	

REGULATORY FLEXIBILITY ANALYSIS REQUIRED:

Undetermined

SMALL ENTITIES AFFECTED:**GOVERNMENT LEVELS AFFECTED:** Federal, Local, State, Tribal**# FEDERALISM AFFECTED:** No**# ENERGY AFFECTED:** No**INTERNATIONAL IMPACTS:** No**# USER SORT CODES:** 10

* - Missing data

- Will not print in agenda

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Gunasekara, Mandy
Sent: Thursday, October 4, 2018 2:43 PM
To: Woods, Clint <woods.clint@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: RE: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

So harlow is looped in too:

Deliberative Process / Ex. 5

From: Woods, Clint
Sent: Thursday, October 4, 2018 2:27 PM
To: Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Re: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

+ Harlow

On Oct 4, 2018, at 2:21 PM, Frye, Tony (Robert) <frye.robert@epa.gov> wrote:

Hello All – Additional follow up from OMB:

22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.

- a. When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.
- b. How many individual facilities in the country were considered a “major source” under Section 112 on January 24, 2018?
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- d. Please provide state-by-state data and a national total for facilities identified in 1(c)
- e. Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA’s decision to revoke the “once in, always in” policy.
- f. How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the “once in, always in” policy?
- g. Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
- h. Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

Deliberative Process / Ex. 5

Tony Frye

Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: Cell Phone / Ex. 6

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 3:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

I like that better. OCIR, I incorporated Justin's suggestion in the below. Clint – anything else?

From: Schwab, Justin
Sent: Tuesday, October 2, 2018 3:40 PM
To: Palich, Christian <palich.christian@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Deliberative Process; ACP / Ex. 5

From: Palich, Christian
Sent: Tuesday, October 2, 2018 12:58 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Thanks Mandy!

Justin/Clint, trying to get this back to OMB today, you ok with below?

Christian R. Palich
Deputy Associate Administrator

Office of Congressional & Intergovernmental Affairs
U.S. Environmental Protection Agency
O: 202.564.4944
C: Cell Phone / Ex. 6
E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 10:15 AM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

My edits and responses to OMB are included below. Clint – anything on your end? Also, Deliberative Process; ACP / Ex. 5 Let me know if you have any edits with that one?

Once Justin/Clint sign off, this is good to go.
Thanks!

From: Frye, Tony (Robert)
Sent: Thursday, September 27, 2018 12:29 PM
To: Woods, Clint <woods.clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Administrator Wheeler EPW Hearing QFRs OMB Passback

Hello Air Team – OMB reviewed Administrator Wheeler’s QFR responses from his EPW hearing on 8.1.2018 and had the following questions and feedback. Let us know if you have any responses or updates by noon tomorrow, 9.28.2018, so we can get them back for review by Administrator Wheeler this weekend. Thank you in advance!

2. On June 29, 2018, EPA published a report entitled, “Biofuels and the Environment: Second Triennial Report to Congress.” The report documents how activities associated with biofuel production and use have negatively affected the environment. Specifically, it shows how activities associated with biofuel production and use have reduced air quality, polluted waters, destroyed wildlife habitat and ecosystems, and depleted already stressed aquifers. Has EPA evaluated how a RVP waiver for fuels with more than ten percent ethanol would affect demand for biofuel feedstocks and the use of biofuels, and, in turn, make the impacts to the environment worse? If not, will EPA do so before issuing a RVP waiver for these fuels?

Deliberative Process / Ex. 5

3. EPA is currently taking public comment on its proposed renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020. EPA issued this proposal three days before issuing its second triennial report to Congress on biofuels and the environment.
 - a. How does EPA plan to incorporate the findings of its second triennial report into the final renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020?

Deliberative Process / Ex. 5

- b. Will EPA seek to mitigate the impacts to the environment, as documented in the second triennial report, in its final volume obligations for 2019 and 2020, respectively?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

21. During the development of the “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26 Passenger Cars and Light Trucks”, EPA officials met with OMB and NHTSA officials to convey their concerns about the proposal several times. They left numerous documents with OMB officials that are now part of the rulemaking docket^[1]. These documents indicate that there are significant problems with the model that was used by NHTSA to develop the proposal to freeze fuel economy and greenhouse gas tailpipe standards from 2020-26. One such example is a document titled “Email_5_-_Email_from_William_Charmley_to_Chandana_Achanta_-_June_18,_2018%20(1).pdf”. This 122 page long document includes a number of PowerPoint presentations EPA made to OMB and NHTSA staff along with additional documentation and analysis.

- a. The document notes that “EPA analysis to date shows significant and fundamental flaws in CAFE model (both the CAFE version and the “GHG version”).... These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards.” Do you believe that each of these flaws were fully remedied before the rules were proposed? If so, please list the specific remedies that addressed each of EPA’s concerns. If not, will you ensure that all necessary technical input from EPA’s Office of Transportation and Air Quality is incorporated into the final rule in order to ensure that the rule cannot be successfully over-turned in court on grounds that the model on which it is based is significantly or fundamentally flawed?
- b. One of the main contributors to the NHTSA conclusions that the augural standards would cause thousands of additional deaths is NHTSA’s “consumer choice” module, which asserts that making the fleet more fuel efficient will cause people to keep their less safe, older vehicles for longer, and that this will mean there are more unsafe vehicles on the road (because newer vehicles have more safety technologies). The document states that EPA believed this NHTSA model was flawed, because it predicts an additional 26 million non-existent vehicles would be in the 2016 fleet and 46 million additional non-existent vehicles in the 2030 fleet. For context, this would represent a 15-20% increase in registered vehicles. The document also notes that this problem appeared to be un-remedied several months after EPA first raised it. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- c. The document also found that NHTSA’s consumer choice model predicts an unexplained, and apparently fictitious 10-15% increase in vehicle miles traveled

^[1] <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

(VMT). Specifically, the model somehow predicts people will drive an extra 239 billion miles in 2016 and 302 billion more miles in 2030. The increased deaths associated with higher efficiency standards in the NHTSA model are highly correlated to VMT (more driving equals more accidents equals more deaths). It would thus seem that EPA believes that the NHTSA safety numbers are predicated on an entirely fictitious driving scenario. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- d. The document also notes that NHTSA does not accurately model the manner in which automobile manufacturers trade credits as part of their compliance strategies, observing that NHTSA does not assume that compliance credits are traded between manufacturers' car and truck fleets (which is what manufacturers currently do), and that this has the effect of over-estimating compliance costs. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- e. The document observes that NHTSA's model overestimates the costs of particular technologies compared to their actual costs and use in the real world. The model also reportedly selects the most expensive technology packages to meet the standards, which overestimates the most cost-effective ways to do so by \$1-2,000 per vehicle. Do you agree that manufacturers would be more likely to select the most cost-effective set of technologies with which to meet standards, rather than the least cost-effective set of technologies? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- f. The document stated that the NHTSA model omitted the benefits of some fuel-efficient technologies entirely, while others were erroneously inputted into the model. For example, 'start/stop' technology, a technology that causes engines to automatically shut off while vehicles are stopped in traffic (and thus use no fuel), is estimated to have a negative effect on fuel-efficiency, which is simply not plausible. Were these problems remedied in the proposed rule? If so, how? If not, will you ensure that they are remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- g. The document observed that NHTSA's model appears to add vehicle miles travelled in unexplained ways. For example, it observed that as many as 25 billion more miles of driving were predicted in a given year, even when the rebound effect (a measure of how much extra driving consumers are expected to do as a result of having more fuel-efficient vehicles) was set to 0 percent. The document observes that NHTSA's model actually predicts *less* driving when the rebound effect was set to 20 percent (meaning 20% more driving by consumers in more fuel-efficient vehicles would have been included in the model) than when it was kept to 0 percent. This suggests that NHTSA's model is incapable of predicting anything accurately, separate and apart from whether one agrees with its policy premise. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid

litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- h. The document states that NHTSA's "Proposed standards are detrimental to safety, rather than beneficial" once NHTSA's modeling errors were corrected. In fact, EPA found that the proposed standards result in "an average increase of 17 fatalities per year in VYs 2036-2045" relative to the current standards. Do you agree with this conclusion? If not, why not?
- i. The document states that the NHTSA model projects that the current standards result in 8,000 fewer new automobiles sold annually in CYs 2021-2032, but that the used vehicle fleet would grow by 512,000 vehicles per year. That means that for every new fuel-efficient vehicle that consumers do not purchase (because NHTSA predicts their costs will be too high), somehow an additional 60 used vehicles will remain in the fleet. Do you agree that this scenario is simply implausible in the real world, as the EPA document points out? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- j. In draft comments submitted to OMB on June 29, EPA commented that more than 90% of the net benefits for which the proposed rule to freeze fuel economy and greenhouse gas tailpipe standards takes credit are in fact benefits associated with vehicles manufactured prior to 2021. EPA attributed this to NHTSA's flawed consumer choice model, and questioned whether these could technically be attributable to the actual post-2021 rule. What would the net benefits of the preferred alternative— and for each of the other seven alternatives included in the NPRM — be if the agencies were to compare the costs to the benefits of cars manufactured within the MY 2021-29 cohort timeframe?

Deliberative Process / Ex. 5

- 22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.
 - a. When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before

making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.

- b. How many individual facilities in the country were considered a “major source” under Section 112 on January 24, 2018?
- c. Please identify, as of January 24, 2018, how many of the “major source” facilities identified in question 1(b) had complied with one or more MACT standards with the result being the source no longer emits more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of hazardous air pollutants? Please group these facilities by source categories (for example, there were X number of chemical plants meeting a MACT standard that resulted in lower emissions than the major source threshold).
- d. Please provide state-by-state data and a national total for facilities identified in 1(c)
- e. Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA’s decision to revoke the “once in, always in” policy.
- f. How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the “once in, always in” policy?
- g. Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
- h. Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

25. During the August 1, 2018 EPW hearing, you fielded several questions from my colleagues on the Renewable Fuel Standard (RFS). Several times you mentioned that under your leadership, EPA would focus more on transparency when it comes to implementing the RFS program. This is welcome news since I've tried to get EPA to take this step for years. However, I am concerned that you may only be focused on transparency when it comes to the small refinery waiver process and not the entire program. I remain concerned about the volatility in the RFS compliance trading system used by EPA, known as the Renewable Identification Number (RIN) market, and believe market transparency is a big part of the solution.
- a. In your answers, you talked about creating a dashboard –without disclosing proprietary information – on who is getting the small refinery waivers and why. Can you discuss further what this dashboard may look like and a timeline on when it may be released?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

- b. The State of California has created a dashboard to provide weekly, monthly, quarterly and annually trading data for its own renewable fuel program. After talking to many stakeholders involved in that process, it seems that California's renewable fuel trading dashboard has been able to provide valuable insight into trading and helped reduced market volatility. EPA could implement something similar for the RFS RIN trading market. Is EPA considering a RIN dashboard that provides the public weekly, quarterly and annual RIN trading data? If not, why not?

Deliberative Process / Ex. 5

- c. What further transparency measures is the EPA considering regarding the RFS program?

Deliberative Process / Ex. 5

32. Administrator Wheeler, during questioning, I discussed with you small refinery exemptions awarded to petitioners for the reason of disproportionate economic hardship. When EPA conducts its analysis to determine disproportionate economic hardship, please clarify if the EPA compares the high cost of compliance to only small refiners (those that produce 75,000 barrels of crude per day) or if the EPA compares the high cost of compliance to the entire refining industry.

Deliberative Process / Ex. 5

39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

Deliberative Process / Ex. 5

65. As you know, many of former Administrator Pruitt's proposed rulemakings have generated lawsuits from outside groups due to their questionable legality. You recognized the questionable legality of at least one of these rules in reversing former Administrator Pruitt's decision to lift the sales limits on so called "glider trucks." Given that many of former Administrator Pruitt's rules and proposed rulemakings were based on the same questionable legal ground as the glider trucks rule, please describe your plan, including a timeline, for withdrawing all other proposed rulemakings signed by former Administrator Pruitt.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: Cell Phone / Ex. 6

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Message

From: Palich, Christian [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=330AD62E158D43AF93FCBBECE930D21A-PALICH, CHR]
Sent: 10/4/2018 6:44:49 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]
CC: Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]
Subject: RE: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

We will relay!

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
 O: 202.564.4944
 C: 202.306.4656
 E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Thursday, October 4, 2018 2:43 PM
To: Woods, Clint <woods.clint@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: RE: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

So harlow is looped in too:

Deliberative Process / Ex. 5

From: Woods, Clint
Sent: Thursday, October 4, 2018 2:27 PM
To: Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Re: ADDITIONAL OMB FOLLOW-UP: Administrator Wheeler EPW Hearing QFRs OMB Passback

+ Harlow

On Oct 4, 2018, at 2:21 PM, Frye, Tony (Robert) <frye.robert@epa.gov> wrote:

Hello All – Additional follow up from OMB:

22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.
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 - g. Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
 - h. Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 3:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

I like that better. OCIR, I incorporated Justin's suggestion in the below. Clint – anything else?

From: Schwab, Justin
Sent: Tuesday, October 2, 2018 3:40 PM
To: Palich, Christian <palich.christian@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Deliberative Process; ACP / Ex. 5

From: Palich, Christian
Sent: Tuesday, October 2, 2018 12:58 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Thanks Mandy!

Justin/Clint, trying to get this back to OMB today, you ok with below?

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: 202.306.4656
E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 10:15 AM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

My edits and responses to OMB are included below. Clint – anything on your end? Also, Deliberative Process: ACP / Ex. 5
Deliberative Process; ACP / Ex. 5 Let me know if you have any edits with that one?

Once Justin/Clint sign off, this is good to go.
 Thanks!

From: Frye, Tony (Robert)
Sent: Thursday, September 27, 2018 12:29 PM
To: Woods, Clint <woods.clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Administrator Wheeler EPW Hearing QFRs OMB Passback

Hello Air Team – OMB reviewed Administrator Wheeler’s QFR responses from his EPW hearing on 8.1.2018 and had the following questions and feedback. Let us know if you have any responses or updates by noon tomorrow, 9.28.2018, so we can get them back for review by Administrator Wheeler this weekend. Thank you in advance!

2. On June 29, 2018, EPA published a report entitled, “Biofuels and the Environment: Second Triennial Report to Congress.” The report documents how activities associated with biofuel production and use have negatively affected the environment. Specifically, it shows how activities associated with biofuel production and use have reduced air quality, polluted waters, destroyed wildlife habitat and ecosystems, and depleted already stressed

aquifers. Has EPA evaluated how a RVP waiver for fuels with more than ten percent ethanol would affect demand for biofuel feedstocks and the use of biofuels, and, in turn, make the impacts to the environment worse? If not, will EPA do so before issuing a RVP waiver for these fuels?

Deliberative Process / Ex. 5

3. EPA is currently taking public comment on its proposed renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020. EPA issued this proposal three days before issuing its second triennial report to Congress on biofuels and the environment.
 - a. How does EPA plan to incorporate the findings of its second triennial report into the final renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020?

Deliberative Process / Ex. 5

- b. Will EPA seek to mitigate the impacts to the environment, as documented in the second triennial report, in its final volume obligations for 2019 and 2020, respectively?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

21. During the development of the “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26 Passenger Cars and Light Trucks”, EPA officials met with OMB and NHTSA officials to convey their concerns about the proposal several times. They left numerous documents with OMB officials that are now part of the rulemaking docket^[1]. These documents indicate that there are significant problems with the model that was used by NHTSA to develop the proposal to freeze fuel economy and greenhouse gas tailpipe standards from 2020-26. One such example is a document titled “Email_5_-_Email_from_William_Charmley_to_Chandana_Achanta_-_June_18,_2018%20(1).pdf”. This 122 page long document includes a number of PowerPoint presentations EPA made to OMB and NHTSA staff along with additional documentation and analysis.

- a. The document notes that “EPA analysis to date shows significant and fundamental flaws in CAFE model (both the CAFE version and the “GHG version”)... These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards.” Do you believe that each of these flaws were fully remedied before the rules were proposed? If so, please list the specific remedies that addressed each of EPA’s concerns. If not, will you ensure that all necessary technical input from EPA’s Office of Transportation and Air Quality is incorporated into the final rule in order to ensure that the rule cannot be successfully over-turned in court on grounds that the model on which it is based is significantly or fundamentally flawed?
- b. One of the main contributors to the NHTSA conclusions that the augural standards would cause thousands of additional deaths is NHTSA’s “consumer

^[1] <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

choice” module, which asserts that making the fleet more fuel efficient will cause people to keep their less safe, older vehicles for longer, and that this will mean there are more unsafe vehicles on the road (because newer vehicles have more safety technologies). The document states that EPA believed this NHTSA model was flawed, because it predicts an additional 26 million non-existent vehicles would be in the 2016 fleet and 46 million additional non-existent vehicles in the 2030 fleet. For context, this would represent a 15-20% increase in registered vehicles. The document also notes that this problem appeared to be un-remedied several months after EPA first raised it. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- c. The document also found that NHTSA’s consumer choice model predicts an unexplained, and apparently fictitious 10-15% increase in vehicle miles traveled (VMT). Specifically, the model somehow predicts people will drive an extra 239 billion miles in 2016 and 302 billion more miles in 2030. The increased deaths associated with higher efficiency standards in the NHTSA model are highly correlated to VMT (more driving equals more accidents equals more deaths). It would thus seem that EPA believes that the NHTSA safety numbers are predicated on an entirely fictitious driving scenario. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

25. During the August 1, 2018 EPW hearing, you fielded several questions from my colleagues on the Renewable Fuel Standard (RFS). Several times you mentioned that under your leadership, EPA would focus more on transparency when it comes to implementing the RFS program. This is welcome news since I've tried to get EPA to take this step for years. However, I am concerned that you may only be focused on transparency when it comes to the small refinery waiver process and not the entire program. I remain concerned about the volatility in the RFS compliance trading system used by EPA, known as the Renewable Identification Number (RIN) market, and believe market transparency is a big part of the solution.

- a. In your answers, you talked about creating a dashboard –without disclosing proprietary information – on who is getting the small refinery waivers and why. Can you discuss further what this dashboard may look like and a timeline on when it may be released?

Deliberative Process / Ex. 5

- b. The State of California has created a dashboard to provide weekly, monthly, quarterly and annually trading data for its own renewable fuel program. After talking to many stakeholders involved in that process, it seems that California's renewable fuel trading dashboard has been able to provide valuable insight into trading and helped reduced market volatility. EPA could implement something similar for the RFS RIN trading market. Is EPA considering a RIN dashboard that provides the public weekly, quarterly and annual RIN trading data? If not, why not?

Deliberative Process / Ex. 5

- c. What further transparency measures is the EPA considering regarding the RFS program?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

32. Administrator Wheeler, during questioning, I discussed with you small refinery exemptions awarded to petitioners for the reason of disproportionate economic hardship. When EPA conducts its analysis to determine disproportionate economic hardship, please clarify if the EPA compares the high cost of compliance to only small refiners (those that produce 75,000 barrels of crude per day) or if the EPA compares the high cost of compliance to the entire refining industry.

Deliberative Process / Ex. 5

39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

Deliberative Process / Ex. 5

65. As you know, many of former Administrator Pruitt's proposed rulemakings have generated lawsuits from outside groups due to their questionable legality. You recognized the questionable legality of at least one of these rules in reversing former Administrator Pruitt's decision to lift the sales limits on so called "glider trucks." Given that many of former Administrator Pruitt's rules and proposed rulemakings were based on the same questionable legal ground as the glider trucks rule, please describe your plan, including a timeline, for withdrawing all other proposed rulemakings signed by former Administrator Pruitt.

Deliberative Process / Ex. 5

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

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Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 10/3/2018 5:22:35 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
CC: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]
Subject: FW: Options for Improved Implementation of Small Refinery Exemption Program
Attachments: Producers United - Small Refinery Exemptions 10-2-18.pdf

Bill, Mandy: you probably already received this independently from the PRUITT group, but I'm forwarding to you just to make sure you have it. Thanks, Ben

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]
Sent: Tuesday, October 2, 2018 3:17 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Options for Improved Implementation of Small Refinery Exemption Program

Ben,

I appreciate the call yesterday. Thank you.

I am guessing you may already have received the attached from Legal, but wanted to make sure you received it directly.

The document outlines how Producers United believes EPA can implement a small refinery exemption program, the process for revising the program and a handful of "guiding principles."

I am guessing we will need to get everyone back together to further discuss.

Let me know if you have questions.

Thank you.

=====
 Larry Schafer
 Playmaker Strategies
 202.997.8072

750 Ninth Street NW
 Suite 650
 Washington DC 20001

Lschafer@PlaymakerStrategies.com
www.PlaymakerStrategies.com

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Message

From: Raburn, Janice [Janice.Raburn@bp.com]
Sent: 10/2/2018 10:12:44 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: BP list of participants for 10/4/18 meeting

Mandy and Alex,

Below is the list of BP folks who will participate in our meeting on October 4, 11 am – 12 pm on the RFS RIN market.

- Bob Stout, VP and Head of Regulatory Advocacy & Policy, BP America, Inc.
- Janice Raburn, Senior Director, Fuels Regulatory Advocacy, BP America, Inc.
- Teresa Lopez, Global Environmental Products Trading Manager, Global Oil Americas
- Vincent Johnson, Head of Commercial Advocacy and Regulatory Affairs, Global Oil Americas
- Jim Bordignon, Integrated Supply & Trading (IST) Compliance Manager
- Mark Bunch, Regulatory Issues Strategist, Fuels NA

Best regards,
 Janice

Janice K Raburn

BP America Inc. | Senior Director, Fuels Regulatory Advocacy

office: 202.346.8516 | mobile: Personal Phone / Ex. 6
 1101 New York Avenue, NW Suite 700 | Washington, DC 20005

From: Raburn, Janice
Sent: Wednesday, September 26, 2018 2:45 PM
To: 'Gunasekara.mandy@Epa.gov' <Gunasekara.mandy@Epa.gov>
Cc: 'Dominguez, Alexander' <dominguez.alexander@epa.gov>
Subject: BP proposal

Hello Mandy,

The BP team is looking forward to meeting with you on October 4. We will provide a BP perspective on how the RFS RIN market works.

In addition, we would like to present a proposal, briefly summarized below. Attached is supporting documentation – I may provide other documents in advance.

The proposal, in short:

BP continues to oppose the extension of the 1# waiver to E15, as we do not think EPA has legal authority to do so. If EPA moves forward with the 1# waiver rulemaking, we support EPA setting ethanol blending at no more than 10% (blendwall) in annual RVOs, Reset, and/or Set rulemakings. This would reduce RIN volatility, remedy small refiner RIN concerns, and eliminate the need for small refinery exemptions

We continue to hear that EPA may also propose a rule aimed at RIN transparency. BP supports RIN market transparency and liquidity but believes no major rulemaking is needed at this time. BP opposes limiting RIN transactions and market participants. EPA's sulfur and benzene credit programs work in this manner, and they have very limited liquidity and transparency. If EPA must propose such a rule, BP thinks quarterly compliance could possibly work. BP has a proposal (attached) on how to implement quarterly compliance; it includes a way to address the cellulosic waiver credit (CWC) so as to address the interests of both obligated parties and cellulosic RIN generators.

Best regards,
Janice

Janice K Raburn

BP America Inc. | Senior Director, Fuels Regulatory Advocacy

office: 202.346.8516 | mobile: **Personal Phone / Ex. 6**
1101 New York Avenue, NW Suite 700 | Washington, DC 20005

Message

From: Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]
Sent: 10/2/2018 9:40:21 PM
To: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
CC: Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

I'm good. Sorry for delay.

From: Palich, Christian
Sent: Tuesday, October 2, 2018 12:58 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Thanks Mandy!

Justin/Clint, trying to get this back to OMB today, you ok with below?

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
 O: 202.564.4944
 C: 202.306.4656
 E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 10:15 AM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

My edits and responses to OMB are included below. Clint – anything on your end? Also, Justin

Deliberative Process; ACP / Ex. 5

Deliberative Process; ACP / Ex. 5

Let me know if you have any edits with that one?

Once Justin/Clint sign off, this is good to go.

Thanks!

From: Frye, Tony (Robert)

Sent: Thursday, September 27, 2018 12:29 PM

To: Woods, Clint <woods.clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>

Subject: Administrator Wheeler EPW Hearing QFRs OMB Passback

Hello Air Team – OMB reviewed Administrator Wheeler’s QFR responses from his EPW hearing on 8.1.2018 and had the following questions and feedback. Let us know if you have any responses or updates by noon tomorrow, 9.28.2018, so we can get them back for review by Administrator Wheeler this weekend. Thank you in advance!

2. On June 29, 2018, EPA published a report entitled, “Biofuels and the Environment: Second Triennial Report to Congress.” The report documents how activities associated with biofuel production and use have negatively affected the environment. Specifically, it shows how activities associated with biofuel production and use have reduced air quality, polluted waters, destroyed wildlife habitat and ecosystems, and depleted already stressed aquifers. Has EPA evaluated how a RVP waiver for fuels with more than ten percent ethanol would affect demand for biofuel feedstocks and the use of biofuels, and, in turn, make the impacts to the environment worse? If not, will EPA do so before issuing a RVP waiver for these fuels?

Deliberative Process / Ex. 5

3. EPA is currently taking public comment on its proposed renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020. EPA issued this proposal three days before issuing its second triennial report to Congress on biofuels and the environment.
 - a. How does EPA plan to incorporate the findings of its second triennial report into the final renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020?

Deliberative Process / Ex. 5

- b. Will EPA seek to mitigate the impacts to the environment, as documented in the second triennial report, in its final volume obligations for 2019 and 2020, respectively?

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21. During the development of the “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26 Passenger Cars and Light Trucks”, EPA officials met with OMB and NHTSA officials to convey their concerns about the proposal several times. They left numerous documents with OMB officials that are now part of the rulemaking docket^[1]. These documents indicate that there are significant problems with the model that was used by NHTSA to develop the proposal to freeze fuel economy and greenhouse gas tailpipe standards from 2020-26. One such example is a document titled “Email_5_-_Email_from_William_Charmley_to_Chandana_Achanta_-_June_18,_2018%20(1).pdf”. This 122 page long document includes a number of PowerPoint presentations EPA made to OMB and NHTSA staff along with additional documentation and analysis.

- a. The document notes that “EPA analysis to date shows significant and fundamental flaws in CAFE model (both the CAFE version and the “GHG version”).... These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards.” Do you believe that each of these flaws were fully remedied before the rules were proposed? If so, please list the specific remedies that addressed each of EPA’s concerns. If not, will you ensure that all necessary technical input from EPA’s Office of Transportation and Air Quality is incorporated into the final rule in order to ensure that the rule cannot be successfully over-turned in court on grounds that the model on which it is based is significantly or fundamentally flawed?

^[1] <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

- b. One of the main contributors to the NHTSA conclusions that the augural standards would cause thousands of additional deaths is NHTSA's "consumer choice" module, which asserts that making the fleet more fuel efficient will cause people to keep their less safe, older vehicles for longer, and that this will mean there are more unsafe vehicles on the road (because newer vehicles have more safety technologies). The document states that EPA believed this NHTSA model was flawed, because it predicts an additional 26 million non-existent vehicles would be in the 2016 fleet and 46 million additional non-existent vehicles in the 2030 fleet. For context, this would represent a 15-20% increase in registered vehicles. The document also notes that this problem appeared to be un-remedied several months after EPA first raised it. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- c. The document also found that NHTSA's consumer choice model predicts an unexplained, and apparently fictitious 10-15% increase in vehicle miles traveled (VMT). Specifically, the model somehow predicts people will drive an extra 239 billion miles in 2016 and 302 billion more miles in 2030. The increased deaths associated with higher efficiency standards in the NHTSA model are highly correlated to VMT (more driving equals more accidents equals more deaths). It would thus seem that EPA believes that the NHTSA safety numbers are predicated on an entirely fictitious driving scenario. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- d. The document also notes that NHTSA does not accurately model the manner in which automobile manufacturers trade credits as part of their compliance strategies, observing that NHTSA does not assume that compliance credits are traded between manufacturers' car and truck fleets (which is what manufacturers currently do), and that this has the effect of over-estimating compliance costs. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- e. The document observes that NHTSA's model overestimates the costs of particular technologies compared to their actual costs and use in the real world. The model also reportedly selects the most expensive technology packages to meet the standards, which overestimates the most cost-effective ways to do so by \$1-2,000 per vehicle. Do you agree that manufacturers would be more likely to select the most cost-effective set of technologies with which to meet standards, rather than the least cost-effective set of technologies? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- f. The document stated that the NHTSA model omitted the benefits of some fuel-efficient technologies entirely, while others were erroneously inputted into the model. For example, 'start/stop' technology, a technology that causes engines to automatically shut off while vehicles are stopped in traffic (and thus use no fuel), is estimated to have a negative effect on fuel-efficiency, which is simply not plausible. Were these problems remedied in the proposed rule? If so, how? If not, will you ensure that they are remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- g. The document observed that NHTSA's model appears to add vehicle miles travelled in unexplained ways. For example, it observed that as many as 25 billion more miles of driving were predicted in a given year, even when the rebound effect (a measure of how much extra driving consumers are expected to do as a result of having more fuel-efficient vehicles) was set to 0 percent. The document observes that NHTSA's model actually predicts *less* driving when

the rebound effect was set to 20 percent (meaning 20% more driving by consumers in more fuel-efficient vehicles would have been included in the model) than when it was kept to 0 percent. This suggests that NHTSA's model is incapable of predicting anything accurately, separate and apart from whether one agrees with its policy premise. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- h. The document states that NHTSA's "Proposed standards are detrimental to safety, rather than beneficial" once NHTSA's modeling errors were corrected. In fact, EPA found that the proposed standards result in "an average increase of 17 fatalities per year in VYs 2036-2045" relative to the current standards. Do you agree with this conclusion? If not, why not?
- i. The document states that the NHTSA model projects that the current standards result in 8,000 fewer new automobiles sold annually in CYs 2021-2032, but that the used vehicle fleet would grow by 512,000 vehicles per year. That means that for every new fuel-efficient vehicle that consumers do not purchase (because NHTSA predicts their costs will be too high), somehow an additional 60 used vehicles will remain in the fleet. Do you agree that this scenario is simply implausible in the real world, as the EPA document points out? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- j. In draft comments submitted to OMB on June 29, EPA commented that more than 90% of the net benefits for which the proposed rule to freeze fuel economy and greenhouse gas tailpipe standards takes credit are in fact benefits associated with vehicles manufactured prior to 2021. EPA attributed this to NHTSA's flawed consumer choice model, and questioned whether these could technically be attributable to the actual post-2021 rule. What would the net benefits of the preferred alternative— and for each of the other seven alternatives included in the NPRM — be if the agencies were to compare the costs to the benefits of cars manufactured within the MY 2021-29 cohort timeframe?

Deliberative Process / Ex. 5

- 22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.

- a. When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.
- b. How many individual facilities in the country were considered a “major source” under Section 112 on January 24, 2018?
- c. Please identify, as of January 24, 2018, how many of the “major source” facilities identified in question 1(b) had complied with one or more MACT standards with the result being the source no longer emits more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of hazardous air pollutants? Please group these facilities by source categories (for example, there were X number of chemical plants meeting a MACT standard that resulted in lower emissions than the major source threshold).
- d. Please provide state-by-state data and a national total for facilities identified in 1(c)
- e. Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA’s decision to revoke the “once in, always in” policy.
- f. How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the “once in, always in” policy?
- g. Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
- h. Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

25. During the August 1, 2018 EPW hearing, you fielded several questions from my colleagues on the Renewable Fuel Standard (RFS). Several times you mentioned that under your leadership, EPA would focus more on transparency when it comes to implementing the RFS program. This is welcome news since I've tried to get EPA to take this step for years. However, I am concerned that you may only be focused on transparency when it comes to the small refinery waiver process and not the entire program. I remain concerned about the volatility in the RFS compliance trading system used by EPA, known as the Renewable Identification Number (RIN) market, and believe market transparency is a big part of the solution.

- a. In your answers, you talked about creating a dashboard –without disclosing proprietary information – on who is getting the small refinery waivers and why. Can you discuss further what this dashboard may look like and a timeline on when it may be released?

Deliberative Process / Ex. 5

- b. The State of California has created a dashboard to provide weekly, monthly, quarterly and annually trading data for its own renewable fuel program. After talking to many stakeholders involved in that process, it seems that California's renewable fuel trading dashboard has been able to provide valuable insight into trading and helped reduced market volatility. EPA could implement something similar for the RFS RIN trading market. Is EPA considering a RIN dashboard that provides the public weekly, quarterly and annual RIN trading data? If not, why not?

Deliberative Process / Ex. 5

- c. What further transparency measures is the EPA considering regarding the RFS program?

Deliberative Process / Ex. 5

32. Administrator Wheeler, during questioning, I discussed with you small refinery exemptions awarded to petitioners for the reason of disproportionate economic hardship. When EPA conducts its analysis to determine disproportionate economic hardship, please clarify if the EPA compares the high cost of compliance to only small refiners (those that produce 75,000 barrels of crude per day) or if the EPA compares the high cost of compliance to the entire refining industry.

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

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Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
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To: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]
CC: Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Deliberative Process; ACP / Ex. 5

From: Palich, Christian
Sent: Tuesday, October 2, 2018 12:58 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Thanks Mandy!

Justin/Clint, trying to get this back to OMB today, you ok with below?

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: 202.306.4656
E: Palich.Christian@epa.gov

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 10:15 AM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
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My edits and responses to OMB are included below. Clint – anything on your end? Also, Justin

Deliberative Process; ACP / Ex. 5

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Let me know if you have any edits with that one?

Once Justin/Clint sign off, this is good to go.

Thanks!

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Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Administrator Wheeler EPW Hearing QFRs OMB Passback

Hello Air Team – OMB reviewed Administrator Wheeler’s QFR responses from his EPW hearing on 8.1.2018 and had the following questions and feedback. Let us know if you have any responses or updates by noon tomorrow, 9.28.2018, so we can get them back for review by Administrator Wheeler this weekend. Thank you in advance!

2. On June 29, 2018, EPA published a report entitled, “Biofuels and the Environment: Second Triennial Report to Congress.” The report documents how activities associated with biofuel production and use have negatively affected the environment. Specifically, it shows how activities associated with biofuel production and use have reduced air quality, polluted waters, destroyed wildlife habitat and ecosystems, and depleted already stressed aquifers. Has EPA evaluated how a RVP waiver for fuels with more than ten percent ethanol would affect demand for biofuel feedstocks and the use of biofuels, and, in turn, make the impacts to the environment worse? If not, will EPA do so before issuing a RVP waiver for these fuels?

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3. EPA is currently taking public comment on its proposed renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020. EPA issued this proposal three days before issuing its second triennial report to Congress on biofuels and the environment.
 - a. How does EPA plan to incorporate the findings of its second triennial report into the final renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020?

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- b. Will EPA seek to mitigate the impacts to the environment, as documented in the second triennial report, in its final volume obligations for 2019 and 2020, respectively?

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21. During the development of the “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26 Passenger Cars and Light Trucks”, EPA officials met with OMB and NHTSA officials to convey their concerns about the proposal several times. They left numerous documents with OMB officials that are now part of the rulemaking docket^[1]. These documents indicate that there are significant problems with the model that was used by NHTSA to develop the proposal to freeze fuel economy and greenhouse gas tailpipe standards from 2020-26. One such example is a document titled “Email_5_ -

^[1] <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

_Email_from_William_Charmley_to_Chandana_Achanta_-_June_18,_2018%20(1).pdf". This 122 page long document includes a number of PowerPoint presentations EPA made to OMB and NHTSA staff along with additional documentation and analysis.

- a. The document notes that "EPA analysis to date shows significant and fundamental flaws in CAFE model (both the CAFE version and the "GHG version").... These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards." Do you believe that each of these flaws were fully remedied before the rules were proposed? If so, please list the specific remedies that addressed each of EPA's concerns. If not, will you ensure that all necessary technical input from EPA's Office of Transportation and Air Quality is incorporated into the final rule in order to ensure that the rule cannot be successfully over-turned in court on grounds that the model on which it is based is significantly or fundamentally flawed?
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22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.

- a. When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.
- b. How many individual facilities in the country were considered a "major source" under Section 112 on January 24, 2018?
- c. Please identify, as of January 24, 2018, how many of the "major source" facilities identified in question 1(b) had complied with one or more MACT standards with the result being the source no longer emits more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of hazardous air pollutants? Please group these facilities by source categories (for example, there were X number of chemical plants meeting a MACT standard that resulted in lower emissions than the major source threshold).
- d. Please provide state-by-state data and a national total for facilities identified in 1(c)
- e. Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA's decision to revoke the "once in, always in" policy.
- f. How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the "once in, always in" policy?
- g. Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
- h. Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

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25. During the August 1, 2018 EPW hearing, you fielded several questions from my colleagues on the Renewable Fuel Standard (RFS). Several times you mentioned that under your leadership, EPA would focus more on transparency when it comes to implementing the RFS program. This is welcome news since I've tried to get EPA to take this step for years. However, I am concerned that you may only be focused on transparency when it comes to the small refinery waiver process and not the entire program. I remain concerned about the volatility in the RFS compliance trading system used by EPA, known as the Renewable Identification Number (RIN) market, and believe market transparency is a big part of the solution.
- a. In your answers, you talked about creating a dashboard –without disclosing proprietary information – on who is getting the small refinery waivers and why. Can you discuss further what this dashboard may look like and a timeline on when it may be released?

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- b. The State of California has created a dashboard to provide weekly, monthly, quarterly and annually trading data for its own renewable fuel program. After talking to many stakeholders involved in that process, it seems that California's renewable fuel trading dashboard has been able to provide valuable insight into trading and helped reduced market volatility. EPA could implement something similar for the RFS RIN trading market. Is EPA considering a RIN dashboard that provides the public weekly, quarterly and annual RIN trading data? If not, why not?

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- c. What further transparency measures is the EPA considering regarding the RFS program?

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32. Administrator Wheeler, during questioning, I discussed with you small refinery exemptions awarded to petitioners for the reason of disproportionate economic hardship. When EPA conducts its analysis to determine disproportionate economic hardship, please clarify if the EPA compares the high cost of compliance to only small refiners (those that produce 75,000 barrels of crude per day) or if the EPA compares the high cost of compliance to the entire refining industry.

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39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

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65. As you know, many of former Administrator Pruitt's proposed rulemakings have generated lawsuits from outside groups due to their questionable legality. You recognized the questionable legality of at least one of these rules in reversing former Administrator Pruitt's decision to lift the sales limits on so called "glider trucks." Given that many of former Administrator Pruitt's rules and proposed rulemakings were based on the same questionable legal ground as the glider trucks rule, please describe your plan, including a timeline, for withdrawing all other proposed rulemakings signed by former Administrator Pruitt.

Deliberative Process / Ex. 5

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

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Message

From: Frye, Tony (Robert) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=58C08ABDFC1B4129A10456B78E6FC2E1-FRYE, ROBER]
Sent: 10/2/2018 3:32:52 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
CC: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Thank you!

Tony Frye
 Special Advisor
 Office of Congressional Affairs
 Environmental Protection Agency
 Cell: 202.603.3225

From: Gunasekara, Mandy
Sent: Tuesday, October 2, 2018 10:15 AM
To: Frye, Tony (Robert) <frye.robert@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

My edits and responses to OMB are included below. Clint – anything on your end? Also, Justin Deliberative Process; ACP / Ex. 5

Deliberative Process; ACP / Ex. 5

Let me know if you have any edits with that one?

Once Justin/Clint sign off, this is good to go.

Thanks!

From: Frye, Tony (Robert)
Sent: Thursday, September 27, 2018 12:29 PM
To: Woods, Clint <woods.clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
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- c. What further transparency measures is the EPA considering regarding the RFS program?

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Environmental Protection Agency
Cell: 202.603.3225

Message

From: Frye, Tony (Robert) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=58C08ABDFC1B4129A10456B78E6FC2E1-FRYE, ROBER]
Sent: 10/2/2018 1:04:19 PM
To: Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: RE: Administrator Wheeler EPW Hearing QFRs OMB Passback

Good Morning Team – Just checking back for a status update.
 Thanks,
 Tony

Tony Frye
 Special Advisor
 Office of Congressional Affairs
 Environmental Protection Agency
 Cell: **Personal Phone / Ex. 6**

From: Frye, Tony (Robert)
Sent: Thursday, September 27, 2018 12:29 PM
To: Woods, Clint <woods.Clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Administrator Wheeler EPW Hearing QFRs OMB Passback

Hello Air Team – OMB reviewed Administrator Wheeler’s QFR responses from his EPW hearing on 8.1.2018 and had the following questions and feedback. Let us know if you have any responses or updates by noon tomorrow, 9.28.2018, so we can get them back for review by Administrator Wheeler this weekend. Thank you in advance!

- On June 29, 2018, EPA published a report entitled, “Biofuels and the Environment: Second Triennial Report to Congress.” The report documents how activities associated with biofuel production and use have negatively affected the environment. Specifically, it shows how activities associated with biofuel production and use have reduced air quality, polluted waters, destroyed wildlife habitat and ecosystems, and depleted already stressed aquifers. Has EPA evaluated how a RVP waiver for fuels with more than ten percent ethanol would affect demand for biofuel feedstocks and the use of biofuels, and, in turn, make the impacts to the environment worse? If not, will EPA do so before issuing a RVP waiver for these fuels?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

3. EPA is currently taking public comment on its proposed renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020. EPA issued this proposal three days before issuing its second triennial report to Congress on biofuels and the environment.
 - a. How does EPA plan to incorporate the findings of its second triennial report into the final renewable fuel volume obligations for 2019 and biomass-based diesel volume obligations for 2020?

Deliberative Process / Ex. 5

- b. Will EPA seek to mitigate the impacts to the environment, as documented in the second triennial report, in its final volume obligations for 2019 and 2020, respectively?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

21. During the development of the “Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-26 Passenger Cars and Light Trucks”, EPA officials met with OMB and NHTSA officials to convey their concerns about the proposal several times. They left numerous documents with OMB officials that are now part of the rulemaking docket^[1]. These documents indicate that there are significant problems with the model that was used by NHTSA to develop the proposal to freeze fuel economy and greenhouse gas tailpipe standards from 2020-26. One such example is a document titled “Email_5_-_Email_from_William_Charmley_to_Chandana_Achanta_-_June_18,_2018%20(1).pdf”. This 122 page long document includes a number of PowerPoint presentations EPA made to OMB and NHTSA staff along with additional documentation and analysis.
- a. The document notes that “EPA analysis to date shows significant and fundamental flaws in CAFE model (both the CAFE version and the “GHG version”).... These flaws make the CAFE model unusable in current form for policy analysis and for assessing the appropriate level of the CAFE or GHG standards.” Do you believe that each of these flaws were fully remedied before the rules were proposed? If so, please list the specific remedies that addressed each of EPA’s concerns. If not, will you ensure that all necessary technical input from EPA’s Office of Transportation and Air Quality is incorporated into the final rule in order to ensure that the rule cannot be successfully over-turned in court on grounds that the model on which it is based is significantly or fundamentally flawed?
 - b. One of the main contributors to the NHTSA conclusions that the augural standards would cause thousands of additional deaths is NHTSA’s “consumer choice” module, which asserts that making the fleet more fuel efficient will cause people to keep their less safe, older vehicles for longer, and that this will mean there are more unsafe vehicles on the road (because newer vehicles have more safety technologies). The document states that EPA believed this NHTSA model was flawed, because it predicts an additional 26 million non-existent vehicles would be in the 2016 fleet and 46 million additional non-existent vehicles in the 2030 fleet. For context, this would represent a 15-20% increase in registered vehicles. The document also notes that this problem appeared to be un-remedied several months after EPA first raised it. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
 - c. The document also found that NHTSA’s consumer choice model predicts an unexplained, and apparently fictitious 10-15% increase in vehicle miles traveled (VMT). Specifically, the model somehow predicts people will drive an extra 239 billion miles in 2016 and 302 billion more miles in 2030. The increased deaths associated with higher efficiency standards in the NHTSA model are highly correlated to VMT (more driving equals more accidents equals more deaths). It would thus seem that EPA believes that the NHTSA safety numbers are predicated on an entirely fictitious driving scenario. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
 - d. The document also notes that NHTSA does not accurately model the manner in which automobile manufacturers trade credits as part of their compliance strategies, observing that NHTSA does not assume that compliance credits are traded between manufacturers’ car and

^[1] <https://www.regulations.gov/document?D=EPA-HQ-OAR-2018-0283-0453>

truck fleets (which is what manufacturers currently do), and that this has the effect of over-estimating compliance costs. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?

- e. The document observes that NHTSA's model overestimates the costs of particular technologies compared to their actual costs and use in the real world. The model also reportedly selects the most expensive technology packages to meet the standards, which overestimates the most cost-effective ways to do so by \$1-2,000 per vehicle. Do you agree that manufacturers would be more likely to select the most cost-effective set of technologies with which to meet standards, rather than the least cost-effective set of technologies? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- f. The document stated that the NHTSA model omitted the benefits of some fuel-efficient technologies entirely, while others were erroneously inputted into the model. For example, 'start/stop' technology, a technology that causes engines to automatically shut off while vehicles are stopped in traffic (and thus use no fuel), is estimated to have a negative effect on fuel-efficiency, which is simply not plausible. Were these problems remedied in the proposed rule? If so, how? If not, will you ensure that they are remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- g. The document observed that NHTSA's model appears to add vehicle miles travelled in unexplained ways. For example, it observed that as many as 25 billion more miles of driving were predicted in a given year, even when the rebound effect (a measure of how much extra driving consumers are expected to do as a result of having more fuel-efficient vehicles) was set to 0 percent. The document observes that NHTSA's model actually predicts *less* driving when the rebound effect was set to 20 percent (meaning 20% more driving by consumers in more fuel-efficient vehicles would have been included in the model) than when it was kept to 0 percent. This suggests that NHTSA's model is incapable of predicting anything accurately, separate and apart from whether one agrees with its policy premise. Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- h. The document states that NHTSA's "Proposed standards are detrimental to safety, rather than beneficial" once NHTSA's modeling errors were corrected. In fact, EPA found that the proposed standards result in "an average increase of 17 fatalities per year in VYs 2036-2045" relative to the current standards. Do you agree with this conclusion? If not, why not?
- i. The document states that the NHTSA model projects that the current standards result in 8,000 fewer new automobiles sold annually in CYs 2021-2032, but that the used vehicle fleet would grow by 512,000 vehicles per year. That means that for every new fuel-efficient vehicle that consumers do not purchase (because NHTSA predicts their costs will be too high), somehow an additional 60 used vehicles will remain in the fleet. Do you agree that this scenario is simply implausible in the real world, as the EPA document points out? If not, why not? Was this problem remedied in the proposed rule? If so, how? If not, will you ensure that it is remedied before the EPA rule is finalized in order to avoid litigation that will result in the rule being overturned on grounds that the model on which it is based is significantly or fundamentally flawed?
- j. In draft comments submitted to OMB on June 29, EPA commented that more than 90% of the net benefits for which the proposed rule to freeze fuel economy and greenhouse gas tailpipe standards takes credit are in fact benefits associated with vehicles manufactured prior to 2021. EPA attributed this to NHTSA's flawed consumer choice model, and questioned whether

these could technically be attributable to the actual post-2021 rule. What would the net benefits of the preferred alternative— and for each of the other seven alternatives included in the NPRM — be if the agencies were to compare the costs to the benefits of cars manufactured within the MY 2021-29 cohort timeframe?

Deliberative Process / Ex. 5

22. On March 14, 2018, I wrote with several of my colleagues to former EPA Administrator Scott Pruitt about our deep concern over the reversal of the EPA's longstanding policy under Section 112 of the Clean Air Act to continuously regulate hazardous air pollution from major industrial sources. We believe revoking the "once in, always in" policy will lead to greater levels of arsenic, lead, mercury, and almost two hundred other air toxic pollutants in communities around the United States. In the letter, we asked that the "once in, always in" policy be reinstated at least until EPA has performed, and received public comment on, a thorough analysis of the expected increases in air toxic pollution and its corresponding impacts on human health.
- a. When former EPA Administrator Scott Pruitt was before the EPW Committee on January 30, 2018, he acknowledged the agency failed to do any analysis before making its ill-advised decision. Please provide all EPA analysis and modeling of the impacts of this policy change, including cancer and other human health effects, environmental effects, effects on state air pollution emissions, cost-benefit analysis, and effects on interstate emissions. If none still exists today, I request that EPA complete such analysis and provide a timeline for completion.
 - b. How many individual facilities in the country were considered a "major source" under Section 112 on January 24, 2018?
 - c. Please identify, as of January 24, 2018, how many of the "major source" facilities identified in question 1(b) had complied with one or more MACT standards with the result being the source no longer emits more than 10 tons per year of any hazardous air pollutant or more than 25 tons per year of any combination of hazardous air pollutants? Please group these facilities by source categories (for example, there were X number of chemical plants meeting a MACT standard that resulted in lower emissions than the major source threshold).
 - d. Please provide state-by-state data and a national total for facilities identified in 1(c)
 - e. Please provide the potential maximum amount of pollution increases for all 187 hazardous air pollutants as a result of EPA's decision to revoke the "once in, always in" policy.
 - f. How much additional particulate matter, ozone, lead and other criteria pollution will be added to the atmosphere as a result of revoking the "once in, always in" policy?
 - g. Under the new memorandum, have any major source facilities in the power plant source category requested to be re-designated as an area source? If so, please provide a list of all such facilities, also indicating whether EPA has approved the re-designation.
 - h. Under the new memorandum how many major sources facilities, other than facilities in the power plant source category, have asked to be re-designated as an area source? Please provide a list of all facilities, also indicating whether EPA has approved the re-designation.

Deliberative Process / Ex. 5

25. During the August 1, 2018 EPW hearing, you fielded several questions from my colleagues on the Renewable Fuel Standard (RFS). Several times you mentioned that under your leadership, EPA would focus more on transparency when it comes to implementing the RFS program. This is welcome news since I've tried to get EPA to take this step for years. However, I am concerned that you may only be focused on transparency when it comes to the small refinery waiver process and not the entire program. I remain concerned about the volatility in the RFS compliance trading system used by EPA, known as the Renewable Identification Number (RIN) market, and believe market transparency is a big part of the solution.
- a. In your answers, you talked about creating a dashboard –without disclosing proprietary information – on who is getting the small refinery waivers and why. Can you discuss further what this dashboard may look like and a timeline on when it may be released?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

- b. The State of California has created a dashboard to provide weekly, monthly, quarterly and annually trading data for its own renewable fuel program. After talking to many stakeholders involved in that process, it seems that California's renewable fuel trading dashboard has been able to provide valuable insight into trading and helped reduced market volatility. EPA could implement something similar for the RFS RIN trading market. Is EPA considering a RIN dashboard that provides the public weekly, quarterly and annual RIN trading data? If not, why not?

Deliberative Process / Ex. 5

- c. What further transparency measures is the EPA considering regarding the RFS program?

Deliberative Process / Ex. 5

32. Administrator Wheeler, during questioning, I discussed with you small refinery exemptions awarded to petitioners for the reason of disproportionate economic hardship. When EPA conducts its analysis to determine disproportionate economic hardship, please clarify if the EPA compares the high cost of compliance to only small refiners (those that produce 75,000 barrels of crude per day) or if the EPA compares the high cost of compliance to the entire refining industry.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

39. In April, EPA issued a policy statement announcing that it would proactively address congressional directives and stakeholder concerns, by treating biogenic emissions from forest biomass as carbon neutral in a forthcoming regulatory action. What is the timeframe in which we can expect the proposed regulation will issue?

Deliberative Process / Ex. 5

65. As you know, many of former Administrator Pruitt's proposed rulemakings have generated lawsuits from outside groups due to their questionable legality. You recognized the questionable legality of at least one of these rules in reversing former Administrator Pruitt's decision to lift the sales limits on so called "glider trucks." Given that many of former Administrator Pruitt's rules and proposed rulemakings were based on the same questionable legal ground as the glider trucks rule, please describe your plan, including a timeline, for withdrawing all other proposed rulemakings signed by former Administrator Pruitt.

Deliberative Process / Ex. 5

Tony Frye

Special Advisor

Office of Congressional Affairs

Environmental Protection Agency

Cell:

Personal Phone / Ex. 6

.....

.....

Message

From: Frye, Tony (Robert) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=58C08ABDFC1B4129A10456B78E6FC2E1-FRYE, ROBER]
Sent: 9/26/2018 7:42:57 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: Fwd: UPDATED Capito
Attachments: UPDATED Admin Wheeler Call w Sen Capito.docx; ATT00001.htm

Hey Mandy — Is the information in the attached still accurate?

Tony

Begin forwarded message:

From: "Frye, Tony (Robert)" <frye.robert@epa.gov>
Date: September 25, 2018 at 11:26:24 AM EDT
To: "Lyons, Troy" <lyons.troy@epa.gov>
Cc: "Palich, Christian" <palich.christian@epa.gov>
Subject: Fwd: UPDATED Capito

Tony

Begin forwarded message:

From: "Frye, Tony (Robert)" <frye.robert@epa.gov>
Date: September 18, 2018 at 9:22:34 AM EDT
To: "Lyons, Troy" <lyons.troy@epa.gov>
Cc: "Palich, Christian" <palich.christian@epa.gov>
Subject: FW: UPDATED Capito

UPDATED draft attached

Tony Frye
 Special Advisor
 Office of Congressional Affairs
 Environmental Protection Agency
 Cell: 202.603.3225

From: Palich, Christian
Sent: Tuesday, September 18, 2018 9:20 AM
To: Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: RE: UPDATED Capito

My edits attached. Send to Troy!

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: 202.306.4656
E: Palich.Christian@epa.gov

From: Frye, Tony (Robert)
Sent: Monday, September 17, 2018 4:55 PM
To: Palich, Christian <palich.christian@epa.gov>
Subject: UPDATED Capito

Tony Frye
Special Advisor
Office of Congressional Affairs
Environmental Protection Agency
Cell: 202.603.3225

Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 9/20/2018 5:39:36 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]; Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]
Subject: Re: Politico: EPA launches website to track RFS exemptions

Great!

Sent from my iPhone

On Sep 20, 2018, at 1:37 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Yes! Great job on this us

Sent from my iPhone

On Sep 20, 2018, at 1:30 PM, Block, Molly <block.molly@epa.gov> wrote:

SO POSITIVE!!!!!! 😊

From: POLITICO Pro [<mailto:politicoemail@politicopro.com>]
Sent: Thursday, September 20, 2018 12:29 PM
To: Block, Molly <block.molly@epa.gov>
Subject: EPA launches website to track RFS exemptions

By Eric Wolff

09/20/2018 12:27 PM EDT

EPA today launched a new website that will track exemptions to the Renewable Fuel Standard.

The dashboard will show the number of small refiners applying for, receiving, and being denied economic hardship exemptions, but it will not identify companies by name. The website also will publish monthly data on biofuels credit trading volumes and renewable fuel production, as well as weekly average prices for Renewable Identification Numbers.

EPA will also publish updates to the data at the same time a company learns it received the exemption in order to prevent market manipulation.

The new website fulfills a promise acting Administrator Andrew Wheeler made to the Senate during his confirmation hearing.

"Increasing transparency will improve implementation of the RFS and provide stakeholders and the regulated community the certainty and clarity they need to make important business and compliance decisions," Wheeler said in a statement.

Agriculture Secretary Sonny Perdue praised the move.

"Farmers stay on top of every bit of news that comes out about the RFS and their industry, so providing them with more information is a priority," Perdue said in a statement.

Two ethanol trade groups, Growth Energy and the Renewable Fuels Association, are suing EPA under the Freedom of Information Act to get specific company information. EPA has said that information is protected as confidential business information.

In separate statements, Growth Energy CEO Emily Skor and Renewable Fuels Association CEO Bob Dineen referred to the move as a "step in the right direction."

To view online:

<https://subscriber.politicopro.com/agriculture/whiteboard/2018/09/epa-launches-website-to-track-rfs-exemptions-1955154>

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Message

From: POLITICO Pro [politicoemail@politicopro.com]
Sent: 9/20/2018 4:30:16 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: EPA launches website to track RFS exemptions

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09/20/2018 12:27 PM EDT

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This email was sent to gunasekara.mandy@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: EPA Press Office [press=epa.gov@cmail20.com]
on EPA Press Office [press@epa.gov]
behalf
of
Sent: 9/20/2018 4:00:15 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: EPA Updates RFS Website to Improve Transparency

EPA Updates RFS Website to Improve Transparency

WASHINGTON (September 20, 2018) – Today, the U.S. Environmental Protection Agency (EPA) updated the Renewable Fuel Standard (RFS) program website to increase transparency surrounding the program. The updated website includes new data and information for both stakeholders and the public.

“For the first time, EPA is providing new information to the public on small refinery exemptions and RIN trading,” said EPA Acting Administrator Andrew Wheeler.

“Increasing transparency will improve implementation of the RFS and provide stakeholders and the regulated community the certainty and clarity they need to make important business and compliance decisions.”

“In our corn-growing community, the RFS program is one of the top issues people are talking about. We hear concerns about lack of transparency around the issuance of small refinery waivers and we are hopeful these changes will put everyone on a level playing field to receive the information at the same time,” said U.S.

Department of Agriculture Secretary Sonny Perdue. **“Farmers stay on top of every bit of news that comes out about the RFS and their industry, so providing them with more information is a priority. Adding timely updates to EPA’s website will be important to USDA’s customers, the people of American agriculture. We have had a great working relationship with Acting EPA Administrator Wheeler and we are pleased to continue it with this progress on RFS information.”**

The data will provide important information for renewable fuel producers, fuel refiners, importers, and marketers that can be used as they make business and compliance decisions. In posting the data, EPA will ensure the protection of confidential business information.

New information includes:

- The number of small refinery exemption petitions received, approved, and denied for each compliance year;
- The weekly average price of Renewable Identification Numbers (RINs) traded; and
- The weekly volume of RINs traded.

The Agency has been working to upgrade online systems to provide easy access to the most up-to-date information. These technical upgrades to the website serve to improve transparency in the Agency's implementation of the statute.

Moving forward, EPA intends to coordinate small refinery hardship decisions with website updates such that the recipients of waivers and the broader market receive the same information at the same time. The Agency will also update information on RIN prices and trading volumes on a monthly basis.

The updated RFS website includes interactive and dynamic features that allow users to customize display of RIN information, feedstock type, and producer attributes.

The data are available here: <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard>

*****WEBSITE DEMO*****

Credentialed press can RSVP to press@epa.gov to participate in a demonstration of the updated website on September 20, 2018 at 1:00 PM. There will be no Q&A session.

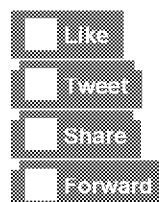
WHAT: RFS Website Update Demo

WHEN: Thursday, September 20
1:00 PM

Please RSVP to press@epa.gov for further information.

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1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004



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Message

From: Larry Schafer [lschafer@playmakerstrategies.com]
Sent: 9/20/2018 3:07:01 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: EPA today

Mandy,

Hearing EPA may be putting out the "dashboard" for SRE's at noon today ...

Trying to confirm ...

Can you confirm for me?

Thank you.

=====
Larry Schafer
Playmaker Strategies
202.997.8072

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=====

Message

From: Kurt Kovarik [kkovarik@biodiesel.org]
Sent: 9/20/2018 1:19:15 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: NBB/ASA letter to President Trump
Attachments: NBB ASA Letter to Trump on RVP 091918.pdf

Good morning,

I hope you are doing well.

I've attached a letter that the National Biodiesel Board and American Soybean Association are sending to President Trump today. Acting Administrator Wheeler was copied on the letter. A hard copy will follow. The letter asks the President to consider supporting policies that will provide certainty and growth to the U.S. biodiesel industry.

Thank you for your consideration. Please let me know if you have any questions.

Best regards,

Kurt

Kurt Kovarik
Vice President of Federal Affairs
National Biodiesel Board
Office: (202) 737-8801
www.nbb.org | www.biodiesel.org
Biodiesel, America's Advanced Biofuel



September 20, 2018

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President,

Thank you for your ongoing support for rural America, its agricultural economy, and the homegrown industries that build prosperity and create jobs. Like many citizens throughout the Midwest, we are grateful that you remain true to your word in defending and expanding the Renewable Fuel Standard (RFS). The RFS is a crucial foundation for the farmers, manufacturers, and entrepreneurs working to grow our nation's domestic renewable energy industry.

Biodiesel is America's first and most widely available advanced biofuel. Biodiesel and renewable diesel are produced in nearly every U.S. state from diverse feedstocks, such as soybean oil, used cooking oil, and animal fats. Biodiesel adds value to every bushel of soybeans and plays an important role by providing a market for surplus soybean oil.

Today, farming income is at its lowest level in more than a decade. Even as soybean growers set production records this year, they are experiencing depressed prices and market uncertainty. While pursuing regulatory action to allow for year-round use of E15 is a step in the right direction for ethanol producers, we would encourage you to provide additional help to the nation's farmers and rural communities by supporting policies that expand production and use of biodiesel as well.

Under the recently proposed rule for 2019 RFS volumes, EPA offered too little room for growth of biodiesel. The agency acknowledges that biodiesel producers will likely produce 2.8 billion gallons next year; however, the agency proposed to set the required RFS volume well below that level. Moreover, the agency recently granted numerous small refinery exemptions that reduce demand for biodiesel by at least 300 million gallons. This is equivalent to a years' worth of biodiesel production in Iowa, the nation's top biodiesel producing state.

The biodiesel industry has asked EPA to set the RFS volume for biomass-based diesel for 2020 at 2.8 billion gallons and to accurately account for small refinery exemptions in the annual rule. EPA must ensure that the biodiesel volumes set in the RFS are met.

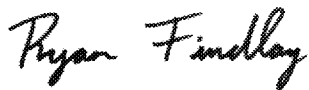
The biodiesel industry and other stakeholders have also asked Congress to extend the biodiesel and renewable diesel incentive in tax policy. This tax credit has helped blenders and fuel marketers expand the use of biodiesel. Unfortunately, "on-again, off-again" legislative

extensions of this tax incentive disrupt our sector's access to capital, frustrating companies' ability to make necessary investments, to hire workers, and to expand.

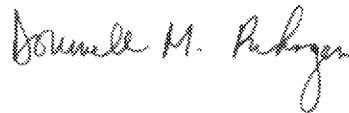
To provide certainty in planning, we are seeking a multi-year extension of the biodiesel and renewable diesel tax incentives. Long-term certainty will foster growth in the domestic biodiesel market and lead to great economic and energy security benefits.

Your support for these policies can further grow the RFS and provide an economic boost for rural America when it is most needed. We look forward to working with you to support a strong RFS and carry out the vision you outlined to fulfill our energy needs while growing our economy.

Sincerely,



Ryan Findlay
CEO
American Soybean Association



Donnell Rehagen
CEO
National Biodiesel Board

Cc:

The Hon. Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

The Hon. Andrew Wheeler
Acting Administrator
Environmental Protection Agency
Office of the Administrator, Mail Code 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 9/19/2018 10:56:31 AM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: FW: The Morning Headlines from InsideEPA.com -- September 19, 2018

From: InsideEPA.com
Sent: Wednesday, September 19, 2018 6:55:57 AM (UTC-05:00) Eastern Time (US & Canada)
To: Dominguez, Alexander
Subject: The Morning Headlines from InsideEPA.com -- September 19, 2018

REDEFINING EPA: Overhauling an agency and its mission -- Complete coverage

September 19, 2018

Latest News

BLM Methane Rule Faces New Legal Fight In Wake Of Similar EPA Measure

The Trump administration has finalized its plan to largely scrap several Obama-era provisions limiting releases of methane, the potent greenhouse gas, from oil and gas development on public lands, setting up a new round of litigation with environmentalists who are already threatening to sue over similar EPA rollbacks.

Partisan Disputes Stymie Senate Environmental Bills Ahead Of Midterms

Partisan divisions among members of the Senate Environment and Public Works Committee (EPW) are slowing the chances that several environmental bills will see floor time this year, with committee leaders focusing their attention on getting a floor vote on bipartisan water infrastructure legislation that has already cleared the House.

Industry Attorneys Expect More Lawsuits Against EPA's TSCA Measures

Chemical industry attorneys are outlining aspects of the Trump administration's implementation of the revised toxics law that they expect to face future legal challenges from environmental groups and industry, ranging from the agency's section 6 bans of certain chemical uses to a proposed approach for gathering and evaluating data for reviews.

EPA Urges 5th Circuit To Uphold Delay Of CWA Utility Effluent Standards

EPA is asking a federal appeals court to uphold its delay of compliance deadlines in the Obama-era Clean Water Act utility effluent rule, rejecting environmentalists' claims that it lacks statutory power to postpone enforcement while it reconsiders the underlying standards and saying the delay could help avoid imposing unnecessary costs on power plants.

Wheeler Eyes 'Partial' Small Refiner Waivers To Mitigate Concerns Over RFS

Acting EPA Administrator Andrew Wheeler is said to be considering future "partial" waivers for small refiners from renewable fuel standard (RFS) biofuel blending obligations, which could help mitigate concerns from biofuels supporters over the waivers while also reassuring the refining sector that the agency will continue to approve some waivers.

Daily Feed

Senate passes CR, signaling impasse on EPA budget

If the House passes the continuing resolution it will ensure EPA keeps operating at its current budget even if lawmakers cannot agree on a new spending bill for the agency.

EPA Inspector General Elkins to leave agency in October

Arthur Elkins Jr. has served as EPA's independent inspector general since June 2010, and is leaving the agency to take an unspecified position in the private sector.

Wehrum details recusals, staving off Senate amendment

The air chief's promise to avoid participation in "any particular matter" involving entities he has represented staved off a Senate amendment calling for the long-promised recusal letter.

Ewire: Trump climate rollbacks spur air quality concerns

In today's Ewire: "They are taking away all the national and regional tools to address pollution and say, 'Don't worry. The air will magically continue to get clean,'" one environmentalist says.

California selenium criteria presents new test for EPA

The agency's draft proposed selenium water quality criteria for the state, which is undergoing White House review, could open a new test on how the agency applies national criteria at a smaller scale.

Read all the latest EPA news, analysis and documents →

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Telephone: 703-416-8500 or 1-800-424-9068

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Message

From: Appleton, Brooke - OSEC, Washington DC [Brooke.Appleton@osec.usda.gov]
Sent: 9/18/2018 5:50:10 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Murtaugh, Tim - OC, Washington, DC [Tim.Murtaugh@oc.usda.gov]; Rich, Michawn - OC, Washington, DC [Michawn.Rich@oc.usda.gov]; Rodgers, Meghan - OC, Washington, DC [Meghan.Rodgers@oc.usda.gov]
Subject: RE: EPA RFS Website Update

Hi Mandy,

We talked to the Secretary about this today and we'd be happy to provide a statement on your updated website rollout. Thank you for the opportunity.

I've cc'd our communications team here, could you put them in touch with the proper person in your comms shop?

Thank you!

Brooke

From: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Sent: Thursday, September 13, 2018 10:49 PM
To: Appleton, Brooke - OSEC, Washington DC <Brooke.Appleton@osec.usda.gov>
Subject: EPA RFS Website Update

Hey Brooke,

I had planned to give you a call first and then follow up with this email, but this day has gotten away from me. In the bigger interest of ensuring you and the rest of the USDA team have enough time to review the below, I've provided a short summary of forthcoming updates to our RFS web page. We plan to roll this out on September 20. Of note will be the small refinery exemption dashboard, which will provide improved real time information on waiver decisions. Please take a look at the items listed out below and let me know if you, or anyone else would like to set up a call to discuss this with our team. We can also set up a web demonstration if there is interest.

Deliberative Process / Ex. 5

I've got some time early tomorrow morning (8 to 9 AM) if you have a moment to chat: **Personal Phone / Ex. 6**

Other than that, I hope all is well!

Best,
Mandy

Overview of Updates and Enhancements to EPA's RFS Website

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Sent from my iPhone

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Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 9/18/2018 5:28:12 PM
To: Murtaugh, Tim - OC, Washington, DC [Tim.Murtaugh@oc.usda.gov]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: DRAFT RFS Website Update

Tim –

Here's what we have for the RFS website update. Please let me know if you have any questions! Mandy (cc'd) have been talking with folks at USDA on this and thought you'd be interested in providing a quote. We plan on issuing this on Thursday at noon. If you could send something over before then, that would be amazing! Thanks!

Deliberative Process / Ex. 5

Thanks!
Molly

EPA Updates RFS Website to Improve Transparency

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/18/2018 2:33:30 PM
To: Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Re: RFS

Yes, sounds good.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

On Sep 18, 2018, at 10:08 AM, Abboud, Michael <abboud.michael@epa.gov> wrote:

Yes, I can come up to your office that works?

Deliberative Process / Ex. 5

From: Wehrum, Bill
Sent: Tuesday, September 18, 2018 9:42 AM
To: Abboud, Michael <abboud.michael@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: RFS

We need to talk about **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

small refinery exemptions. Do you have time at 10:45?

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

Message

From: Beach, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6B124299BB6F46A39AA5D84519F25D5D-BEACH, CHRI]
Sent: 9/17/2018 11:48:31 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]; Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]
Subject: Re: RFS website quote

Ha perfect! Thanks!

Sent from my iPhone

On Sep 17, 2018, at 7:16 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Deliberative Process / Ex. 5

Sent from my iPhone

On Sep 17, 2018, at 7:14 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Deliberative Process / Ex. 5

Sent from my iPhone

On Sep 17, 2018, at 7:10 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Deliberative Process; ACP / Ex. 5

From: Beach, Christopher
Sent: Monday, September 17, 2018 5:32 PM
To: Block, Molly <block.molly@epa.gov>
Cc: Abboud, Michael <abboud.michael@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: RFS website quote

Deliberative Process / Ex. 5 Adding Mandy and Justin to see what they think. Can you all look at the draft quote below for Wheeler?

Deliberative Process / Ex. 5

From: Block, Molly
Sent: Monday, September 17, 2018 5:23 PM
To: Beach, Christopher <beach.christopher@epa.gov>

Cc: Abboud, Michael <abboud.michael@epa.gov>

Subject: RE: RFS website quote

Deliberative Process / Ex. 5

From: Beach, Christopher

Sent: Monday, September 17, 2018 4:37 PM

To: Block, Molly <block.molly@epa.gov>

Subject: RFS website quote

What do you think? Edit away and then we can send to Mandy for sign off.

Deliberative Process / Ex. 5

Message

From: Abboud, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B6F5AF791A1842F1ADCC088CBF9ED3CE-ABBOUD, MIC]
Sent: 9/17/2018 8:34:18 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]
Subject: FW: EPA weighs partial biofuel waivers to small refiners

Mandy-

Deliberative Process / Ex. 5

Michael Abboud
 U.S. Environmental Protection Agency
 Office of Public Affairs
 M: 202-564-6461

From: POLITICO Pro [mailto:politicoemail@politicopro.com]
Sent: Monday, September 17, 2018 4:28 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Subject: EPA weighs partial biofuel waivers to small refiners

By Eric Wolff

09/17/2018 04:26 PM EDT

EPA is considering allowing small refiners to receive partial exemptions from the Renewable Fuel Standard, according to a spokesman, a move that would allow them to shed a portion of their requirements to blend ethanol with gasoline.

"This issue is the subject of ongoing discussions" with the Department of Agriculture, the White House, and the Department of Energy, EPA spokesman Michael Abboud said.

Former EPA Administrator Scott Pruitt sharply increased the number of economic hardship exemptions the agency issued to small refiners, infuriating ethanol producers who said allowing the fuel processors to shed their blending requirements undermined the program. Ethanol industry officials say they expect EPA to continue liberally issuing the exemptions in the future.

Emily Skor, CEO of ethanol producers trade group Growth Energy, told reporters that acting EPA Administrator Andrew Wheeler is considering several options to tamp down battles between the oil and biofuels industries, including the changing the criteria refiners must meet for economic hardship.

"He's inherited a lot, " she said.

To view online:

<https://subscriber.politicopro.com/energy/whiteboard/2018/09/epa-weighs-partial-biofuel-waivers-to-small-refiners-1937596>

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Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/17/2018 7:42:58 PM
To: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]
Subject: Re: FOR REVIEW: RFS Website Update

Deliberative Process; ACP / Ex. 5

Sent from my iPhone

On Sep 17, 2018, at 3:18 PM, Block, Molly <block.molly@epa.gov> wrote:

Will do. Thanks Mandy! Forgot Schwab on the first get go. Justin –

Deliberative Process; ACP / Ex. 5

Also still waiting on a quote from Chris. Thanks!

From: Gunasekara, Mandy
Sent: Monday, September 17, 2018 3:16 PM
To: Block, Molly <block.molly@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Re: FOR REVIEW: RFS Website Update

I made two edits included in the below (including title addition). It's good to go. Let's plan to ping USDA tomorrow if we don't hear from them before.

Thank you!

Sent from my iPhone

On Sep 17, 2018, at 10:48 AM, Block, Molly <block.molly@epa.gov> wrote:

Pinging again. Please let me know if you have any edits. Chris will add in a quote and I'm working to get the webinar information for this week.

From: Block, Molly
Sent: Friday, September 14, 2018 2:05 PM
To: Hewitt, James <hewitt.james@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: FOR REVIEW: RFS Website Update

See below/attached.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Abboud, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B6F5AF791A1842F1ADCC088CBF9ED3CE-ABBOUD, MIC]
Sent: 9/17/2018 6:27:11 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]
CC: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]
Subject: RE: RFS - partial waivers?

Sounds good.

-----Original Message-----

From: Gunasekara, Mandy
 Sent: Monday, September 17, 2018 2:26 PM
 To: Woods, Clint <woods.clint@epa.gov>
 Cc: Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <molly@epa.gov>
 Subject: Re: RFS - partial waivers?

Deliberative Process / Ex. 5

Sent from my iPhone

> On Sep 17, 2018, at 2:11 PM, Woods, Clint <woods.clint@epa.gov> wrote:

>
 > Defer to Mandy, who may be on a plane. Deliberative Process / Ex. 5
 >
 >> On Sep 17, 2018, at 2:09 PM, Abboud, Michael <abboud.michael@epa.gov> wrote:

>>
 >> Mandy and Clint-
 >>
 >> Anything you guys would like us to say here?

>> -----Original Message-----

>> From: Eric Wolff [mailto:ewolff@politico.com]
 >> Sent: Monday, September 17, 2018 2:02 PM
 >> To: Press <Press@epa.gov>
 >> Subject: RFS - partial waivers?

>>
 >> Hi - Emily Skor at growth energy said EPA is considering using partial waivers to small refiners, rather than total waivers. Can you confirm? Is EPA looking into that idea?
 >>
 >> Thanks,
 >>
 >> Eric Wolff

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 9/14/2018 6:05:11 PM
To: Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: FOR REVIEW: RFS Website Update
Attachments: RFS Web Update Press Release.docx

See below/attached.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Congress of the United States
Washington, DC 20515

September 14, 2018

President Donald J. Trump
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President:

We write to you today as Members of Congress representing the Commonwealth of Pennsylvania who are concerned about the negative impact the renewable fuel standard (RFS) is having on our constituents and the state's economy. We applaud the work your administration is doing to spur economic growth across the nation, and we believe that reforming the RFS in a manner that protects Pennsylvania refineries, which directly employ over 2,000 individuals, is entirely consistent with those efforts.

It is our understanding that you may be considering a policy change to allow for the sale of ethanol fuels during summertime months, despite environmental requirements under Clean Air Act. While reasonable minds differ on whether summertime E15 is a good idea, we strongly urge you to advance permanent reforms that address the harms the current approach to implementing the RFS inflicts upon refiners, particular if summertime restrictions are lifted for ethanol.

A robust refining sector is vital to blue-collar manufacturing jobs and America's energy security. Unfortunately, the RFS program has reduced refining capacity on the East Coast and has had a devastating financial impact on Pennsylvania refineries, recently forcing one of our state's refineries into bankruptcy and pushing another to seek investors. A new study that examined the economic effects of the RFS program on PADD 1 refiners found, "EPA's proposed 2019 RFS requirements have the potential to make a number of East Coast refineries unprofitable," which "will increase the probability that one or more of these refineries may be unable to continue production."¹

Reforms to the RFS should not only benefit the agribusiness giants of the Midwest. We believe fairness to Pennsylvania dictates adoption of policies that minimize the price of tradable RFS credits called Renewable Identification Numbers (RINs); continuation of the policy of addressing harms to our smaller refineries without making conditions worse for other sized refineries; and adoption of RIN market reforms to increase the liquidity of RINs, prevent hoarding, and eliminate speculation in the market. These policies can be adopted without any harm to the farmer or biofuel producer, as years of experience have shown that high RINs prices do not stimulate any additional biofuel blending. By contrast, low RINs prices in recent months have been met with record ethanol production and use.

Unemployment in Pennsylvania is down to 4.2 percent – the lowest point since 2007. By adopting a balanced approach to RFS reforms with permanent and durable relief for refiners, we

¹ Craig Pirrong, Analysis of the RFS Program and the 2019 Proposed Standards 2 (Aug. 17, 2018)


believe you will help our state continue this historic economic growth, while also creating a win-win solution for farmers and Pennsylvania refiners.

Thank you for your consideration of our request.

Sincerely,


Lou Barletta
Member of Congress


Bill Shuster
Member of Congress


Keith J. Rothfus
Member of Congress


Scott Perry
Member of Congress


Ryan A. Costello
Member of Congress

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/14/2018 12:35:31 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
Subject: Re: Briefing Materials for fuels related meetings today

Let's skip the Roundtable this morning.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

On Sep 14, 2018, at 8:26 AM, Lewis, Josh <Lewis.Josh@epa.gov> wrote:

We'll have hard copies at the meetings. Bill, looks like you now have a 9:45 so let us know what you want to do about 9:30 roundtable

<2018.9.14 SRE litigation.pptx>

<REGS - Small Refinery CBI Determination.docx>

<Agenda for Fuels Weekly with OAR 09 14 18.docx>

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/14/2018 12:26:48 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
Subject: Briefing Materials for fuels related meetings today
Attachments: 2018.9.14 SRE litigation.pptx; ATT00001.htm; REGS - Small Refinery CBI Determination.docx; ATT00002.htm; Agenda for Fuels Weekly with OAR 09 14 18.docx; ATT00003.htm

We'll have hard copies at the meetings. Bill, looks like you now have a 9:45 so let us know what you want to do about 9:30 roundtable

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 9/13/2018 11:22:06 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: RE: RFS
Attachments: dshCleanRFS Presidential Memo_2018 04 06.docx; dshRLSORFS Presidential Memo_2018 04 06.docx; dshRLSORFS Presidential Memo_2018 04 06.pdf

Bill & Mandy,

Here's what I've come up with, quick-and-dirty.

I've included both a clean copy and an RLSO **Deliberative Process; ACP / Ex. 5**

Deliberative Process; ACP / Ex. 5

Oh, I also included a .pdf version of the RLSO, in case either of you were going to be reviewing that on your phone. As I think I recall, it's difficult, if not altogether impossible, to view an RLSO of a Word document on our phones.

Anyway, see what you think. I'm off. I'll see you tomorrow.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Wehrum, Bill
Sent: Thursday, September 13, 2018 5:48 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

Cc: Harlow, David <harlow.david@epa.gov>

Subject: Re: RFS

Here are my suggestions:

Deliberative Process / Ex. 5

Thanks.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

On Sep 13, 2018, at 5:29 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

David,

Per our discussion, attached is the draft memo

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Mandy M. Gunasekara
Principal Deputy Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency

<RFS Presidential Memo_2018 04 06.docx>

<RIN Transparency Ideas_OTAQ.docx>

Appointment

From: Birgfeld, Erin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3383BC15DD5542E5BFF5C3DE13BA9BF2-EBIRGFEL]
Sent: 9/12/2018 4:34:14 PM
To: Weihrauch, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=74d426b7439045d9a0a65b186ea68b21-Jweihrau]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Mylan, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=70798537ae234bdeb55b66364fb8f220-Mylan, Christopher]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Thundiyl, Karen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25cfc85adc76406db1ddf8a5232eb5e8-KTHUNDIY]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Master, Barbora [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2c813860457b42019078b33089aaeee5-bjemelko]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Cory, Preston (Katherine) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bfd80b15f6d04a3ba11fc8ca3c85bc50-Cory, Kathe]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Morgan, Ashley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4acef44653d440e3baab09958ffc24ea-Morgan, Ash]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Ringel, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1654bdc951284a6d899a418a89fb0abf-Ringel, Aar]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Shimmin, Kaitlyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=becb3f33f9a14acd8112d898cc7853c6-Shimmin, Ka]
CC: Le, Madison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9297d8b52bcb41319ba40d11142ab307-Le, Madison]; Boylan, Thomas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32e90a8aa3b04741a8ffb43f7e8814f5-Boylan, Tho]
Subject: Walk through RFS Data Updates aka - the "dashboard" and discuss roll out for Sept. 20
Attachments: Roll out Plan for RFS Website Enhancements 8-29-18.docx
Location: DCRoomARN6524/DC-OAR-OTAQ-IO
Start: 9/14/2018 1:15:00 PM
End: 9/14/2018 2:00:00 PM
Show Time As: Tentative

Hi all,

This meeting is to prepare for the planned release of new data under the RFS program planned for next Thursday (Sept. 20).

The current roll out plan is attached for more background. John Weihrauch, the Center Director responsible for all of our fuels data systems and for updating this website will walk us through the updates. He will most likely participate via Skype.

The rest of us can gather in room 6524.

Skype info is below:

→ [Join Skype Meeting](#)

Trouble Joining? [Try Skype Web App](#)

Join by Phone

Toll number:

[Find a local number](#)

Conference ID:

[Help](#)

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/5/2018 2:46:11 AM
To: Francis.J.Brooke; [EOP email address/Ex. 6] Aaron.L.Szabo; [EOP email address/Ex. 6]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Fwd: USDA Comments on 2019 RVO proposed rule
Attachments: 1038 USDA.PDF; ATT00001.htm

Let's discuss.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

Begin forwarded message:

From: "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>
Date: September 4, 2018 at 8:23:33 PM EDT
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Cc: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Grundler, Christopher" <grundler.christopher@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>
Subject: USDA Comments on 2019 RVO proposed rule

Bill:

Last week you requested a copy of the comments that USDA submitted on the 2019 RVO rule. With apologies for the delay in getting these to you, here they are.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Ben

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/5/2018 2:42:14 AM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Fwd: USDA Comments on 2019 RVO proposed rule
Attachments: 1038 USDA.PDF; ATT00001.htm

Deliberative Process / Ex. 5

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

Begin forwarded message:

From: "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>
Date: September 4, 2018 at 8:23:33 PM EDT
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Cc: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Grundler, Christopher" <grundler.christopher@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>
Subject: USDA Comments on 2019 RVO proposed rule

Bill:

Last week you requested a copy of the comments that USDA submitted on the 2019 RVO rule. With apologies for the delay in getting these to you, here they are.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Ben

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 8/22/2018 2:43:13 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Updated - Ohio Talkers
Attachments: OAR OH Travel Briefing_Draft (v1).docx; Ohio Nonattainment Maps Compiled.pdf; SAFE Fact Sheet Binder.pdf

As mentioned yesterday, I think we actually should keep RFS info in even though Stephen does not ask for it since Ohio is a major ethanol producer (eighth largest in the country). Additionally, I will need the RFS info for the KY info due today as well and for Delta/Munroe Energy meeting tomorrow.

Attached is everything I planned to send to Stephen for OH. Although somewhat lengthy I'll argue that in these types of situation it is, for several reasons, better to cast a wide net.

Give me a call if you would like (and please do if you have the time).

From: Gordon, Stephen
Sent: Monday, August 20, 2018 3:25 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: Ohio Talkers

OAR – Could you all please provide a one-pager on NAAQ's, CPP, OOOOa and CAFE for Administrator Wheeler's trip to Ohio on August 28th? Could you also include any other Ohio specific talkers as well? We will be visiting with Ohio Chamber of Commerce members in Columbus Ohio and local government officials in Zanesville, Ohio.

The deadline for the talkers is Wednesday, August 22nd at noon. I know you all are slammed right now sorry about the quick turnaround time!

-Stephen

Stephen L. Gordon Jr.
Deputy Director for Public Engagement
Office of the Administrator
U.S. Environmental Protection Agency
(202) 734-0666
Gordon.Stephen@epa.gov

Appointment

From: Administrator / Ex. 6 [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=83F9AE79D99D4661AA37D687409C1993-ADM15WHEELE]
Sent: 8/22/2018 2:34:36 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Meeting with BP America
Attachments: EPA Meeting Request Form - Acting Administrator Wheeler.pdf
Location: Administrator's Office

Start: 8/27/2018 8:00:00 PM
End: 8/27/2018 8:30:00 PM
Show Time As: Tentative

Ct:
Jim Nolan
312-307-4549
James.Nolan@bp.com

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 8/21/2018 9:47:58 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]
Subject: RE: Ohio Talkers
Attachments: OAR OH Travel Briefing_Draft (v1).docx; oh25_2012.pdf; ohso2_2010.pdf; 2015_Ozone_final_060418.pdf

Attached is draft travel memo for revisions. For CPP I'll include the final ACE rollout materials. I did not include any Ohio specific talkers on here.

From: Gordon, Stephen
Sent: Monday, August 20, 2018 3:25 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: Ohio Talkers

OAR – Could you all please provide a one-pager on NAAQ's, CPP, OOOOa and CAFE for Administrator Wheeler's trip to Ohio on August 28th? Could you also include any other Ohio specific talkers as well? We will be visiting with Ohio Chamber of Commerce members in Columbus Ohio and local government officials in Zanesville, Ohio.

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-Stephen

Stephen L. Gordon Jr.
Deputy Director for Public Engagement
Office of the Administrator
U.S. Environmental Protection Agency
(202) 734-0666
Gordon.Stephen@epa.gov

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 8/27/2018 12:28:52 PM
To: Shoaff, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac16fb09cf2c44adb34a7405dc331532-JShoaff]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Lubetsky, Jonathan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e125d09a658e48119789ccae5712b4a5-JLUBETSK]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: FW: QFRs for review/refinements circa Monday
Attachments: 2018.08.24b - OAR Wheeler QFRs 08.01.2018.docx

Here are a few comments in track changes.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

From: Shoaff, John
Sent: Friday, August 24, 2018 12:45 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Subject: QFRs for review/refinements circa Monday

Bill et al,

Per mention at Roundtable this AM, please find attached the latest proposed responses to the QFRs from the SEPW Wheeler Hearing. Aiming to turn these around Monday if at all possible noting that OCIR wanted as soon as today. Thanks!

John

JOHN SHOAFF | DIRECTOR
 OFFICE OF AIR POLICY & PROGRAM SUPPORT (OAPPS)
 OFFICE OF AIR & RADIATION | U.S. EPA | WJC NORTH 5442-B
 1200 PENNSYLVANIA AVE. NW | MC 6103A | WASHINGTON, D.C. | 20460 | USA
Shoaff.john@epa.gov | 1-202-564-0531 DIRECT | 1-202-257-1755 MOBILE

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 8/24/2018 5:21:01 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: 2019 RVO Comments
Attachments: Valero Comments.pdf

Attached are their comments



Submitted Via eRulemaking Portal

August 17, 2018

Acting Administrator Andrew Wheeler
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Mail Code 28221T
Washington, D.C. 20460

Attn: Docket ID No. EPA-HQ-OAR-2018-0167

Re: Renewable Fuel Standard: Proposed RVOs for 2019 and Biomass-based Diesel Volume for 2020

Dear Acting Administrator Wheeler:

The Valero Energy Corporation and its subsidiaries (collectively, "Valero") submit these comments on EPA's proposed renewable volume obligations ("RVOs") for 2019 and for biomass-based diesel for 2020 under the renewable fuel standard ("RFS") program. In the proposal, EPA seeks comment on several issues in the RFS program in addition to the RVO. Valero's unique position as a refiner, importer, exporter, marketer and biodiesel and ethanol producer means that Valero views the RFS program from several perspectives that can be particularly helpful to EPA on the issues raised in the proposal. Valero urges EPA to consider its unique frame of reference in evaluating the views and recommendations presented in these comments.

As the largest petroleum refining company in the U.S. and the world's largest independent refiner, Valero employs approximately 10,000 employees and operates 15 petroleum refineries in the U.S., Canada and the U.K. Valero therefore has a large RFS obligation and has the perspective of an obligated party and a merchant refiner. Valero is also a fuel importer, exporter, and a major fuel wholesaler. Important also from Valero's perspective is Valero's experience as a biofuel producer. Valero was the first traditional petroleum refiner to enter large-scale ethanol production and has 11 state-of-the-art plants making Valero the third largest ethanol producer in the U.S. Valero's investment in Diamond Green Diesel makes Valero also the largest renewable diesel producer in the U.S.

Due to these diverse business interests, Valero is a member of several different trade associations that themselves represent diverse interests. To the extent that these associations submit comments on this proposal, they should not be construed as necessarily representing Valero's viewpoints, particularly when such comments (or lack of comments) may conflict with our statements herein.

Valero is concerned that EPA has yet again proposed RVOs that are not reasonably attainable and EPA has declined to make use of available authorities to reduce harms caused by the program and the volatile RIN market. In addition to our concerns about the volumes, in these comments, we

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identify corrections to the RFS that will substantially improve the program and ensure that it continues to meet the statutory goals set by Congress: to support growth in renewable fuels in the U.S. and to enhance U.S. energy security and independence. As noted in these comments, Valero has provided information and recommendations to EPA in previous comments. Valero has separately submitted its prior comments and other centrally relevant documents to this docket and asks EPA to consider that information as well as these comments in considering how to reduce the unintended and unnecessary harms caused by the RFS.

I. Introduction and Summary

Since 2013, the RFS program has been fraught with challenges, yet EPA has set annual mandates every year at aspirational levels. In that time, EPA has made decisions based on interpretations of the statute that conflict with the goals and the structure of the statute. EPA has acknowledged that the RFS has resulted in renewable fuel entering the market in volumes that increasingly exceed the blendwall and that the statutory goals for biofuel volumes are not achievable. Yet, EPA has not exercised all the authority available under the statute to minimize harm that arises from well-documented market constraints. One of EPA's fundamental obligations under the statute is to set volumes at levels that do not cause unnecessary harm. EPA fails to meet these obligations with the proposal. Valero urges EPA to reconsider the proposed volumes and to reconsider statutory interpretations made in prior rules that EPA relies upon in this proposal.

Despite having numerous tools at its disposal, EPA continues to fail to address the harm to merchant refiners that became apparent before 2015. Although EPA has recently granted waivers to small refineries, the small refinery exemption is not EPA's only tool to address harm in the market nor is it sufficient to remedy harm to all merchant refiners, since many refineries that are harmed do not qualify for the waiver. Valero urges EPA to change course from relying on the same theory-based assessments on which it has relied in each of last three RVO rulemakings and instead undertake a serious and robust evaluation of evidence in the past year that support EPA using more tools to reduce distortions in the RIN market and the fuel market.

Valero asks that EPA reduce mandates for total renewable fuels and advanced renewable fuel so that they are reasonably attainable. EPA admits that the mandate relies on biomass-based diesel volumes that are not reasonably attainable. EPA must also consider domestic supply of biomass-based diesel ("BBD") in setting a reasonably attainable 2020 standard. Valero supports EPA's intention to preserve the RIN carry-over bank and urges EPA to consider that the proposed RVO might result in drawing down the RIN bank because the mandates are not reasonably attainable.

Recent developments provide overwhelming evidence that the current RFS is causing economic harm; thus, Valero urges EPA to reduce the harm by using the general waiver authority to reduce volumes. EPA should use both general waivers: (i) EPA should define "domestic supply" to mean only renewable fuel produced in the U.S. and find that there is an inadequate domestic supply of advanced renewable fuel and (ii) EPA should undertake a robust evaluation of the harms identified by states, by merchant refiners and small retailers and reduce the volumes to prevent the severe economic harm otherwise caused. EPA must not re-allocate volumes attributable to exempt small refineries among the other obligated parties; to do so would exceed

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statutory authority, violate due process of obligated parties and cause additional harm to merchant refiners who do not qualify for small refinery waivers.

Additional tools available to EPA to provide relief in the RIN market include changing the status of exported renewable fuel, changing the point of obligation and implementing trading reforms. EPA can increase the supply of RINs in the market and provide additional RIN liquidity and RIN price stability if EPA changes the RFS to ensure that all renewable fuel produced in the U.S. for transportation fuel is available for compliance credits. EPA should ensure that exported renewable fuel can also be used for compliance with the RVO. In response to EPA's request for recommendations to address RIN market problems, Valero suggests several measures that might address problems in the RIN market but Valero must remind EPA that the primary cause of RIN market problems is the definition of obligated party and the fact that blenders are not obligated parties.

II. The Proposed Volumes Are Not Reasonably Attainable

A. EPA Must Set Reasonably Attainable Volumes for Total Renewable Fuel

The RFS volumes must be reasonably attainable. To determine reasonably attainable volumes of total renewable fuel under the current structure, EPA must assess markets for conventional ethanol. In the proposal for the 2019 RVO, EPA did not provide an assessment of the E0, E15, and E85 markets to determine what levels of conventional ethanol are reasonably attainable for 2019. Rather, EPA assumed ethanol use in 2019 will be as high as actual used in 2017—10.11%. This amounts to 14.527 billion gallons of ethanol consumption for 2019, falling short of the implied conventional ethanol volume of 15 billion gallons.¹

Even assuming EPA's projections are accurate for 2019, the implied conventional fuel mandate of 15 billion gallons is not achieved and 3.2 billion gallons of other renewable fuel, such as advanced and conventional biodiesel and renewable diesel, are needed to satisfy the total renewable fuel volume. According to EPA, 3.2 billion gallons is approximately 300 million gallons higher than the volume EPA projected for biodiesel needed in 2017 and in 2018. This is above and beyond the volume needed to achieve the advanced fuel volumes. In order to achieve the implied conventional fuel mandate of 15 billion gallons, the ethanol content would have to average

¹ David Korotney, EPA, Market impacts of biofuels in 2019 at 3 (Nov. 27, 2017) (EPA-HQ-OAR-2018-0167-0025). Determination of Volume of Biodiesel and Renewable Diesel Needed in 2019 to Achieve 19,880 Million Gallons of Total Renewable Fuel

Total renewable fuel volume	19,880
Ethanol	14,527
Non-ethanol cellulosic biofuel	362
Other non-ethanol renewable fuels	40
Biodiesel and renewable diesel needed (ethanol-equivalent volume/physical volume)	4,951 / 3,194

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10.45%. This is a significant increase beyond historical levels. Currently, the ethanol content is ~9.96% for the first 6 months of 2018.² These requirements are not reasonably attainable.

B. EPA Must Set Reasonably Attainable Volumes for Advanced Renewable Fuel

EPA should not finalize its proposed advanced renewable fuel volume because EPA fails to consider the costs and uncertainty associated with importing renewable fuel and account for reduced volumes of renewable fuel imports due to increased costs and because the volumes of advanced ethanol, other advanced biofuels, and advanced biodiesel and renewable diesel EPA estimates will be reasonably attainable are insufficient to meet its proposed requirement.

EPA has proposed to find that “100 million gallons of advanced ethanol, 60 million gallons of other advanced biofuels, and 2.65 billion gallons of advanced biodiesel and renewable diesel are reasonably attainable.”³ However, the Agency concludes that, combined with its estimate of 381 million gallons of reasonably attainable cellulosic biofuel, “the sum of these volumes falls short of 4.88 billion gallons, which is lowest advanced biofuel requirement that EPA can determine under the cellulosic waiver authority.”⁴ To make up the difference, EPA suggests there may be as much as 2.8 billion gallons of advanced biofuel available in 2019, but admits that this is a risky bet because of “likely feedstock/fuel diversions.”⁵ If this bet fails, EPA suggests that carryover RINs can serve as a backstop,⁶ but acknowledges that compliance using carry-over RINs is not practical.⁷

EPA must consider the costs and uncertainty associated with reliance on imported BBD to meet the RVO. Historically imported BBD accounted for ~30% of generated RINs. Through May 2018, imported BBD accounts for ~18% of the generated BBD RINs. EPA's projection of 4.34 billion advanced biodiesel and renewable diesel RINs in 2019 is overly optimistic. Given tariffs on imported biodiesel from Argentina and Indonesia, EPA proposes an RVO that requires unreasonably high growth in domestic production and imports from other countries. Current domestic BBD capacity is 2.4 billion gallons and utilization is ~70% through May 2018.⁸ Biodiesel imports are significantly down so far in 2018. Actual imports of BBD are down 52% from last year (296 vs. 614 mbpm). Based on the year-to-date average, 2018 imports of BBD are expected to have a 62% decrease from last year (296 vs. 781 mbpm).⁹ Domestic production of biodiesel is higher in 2018, but not high enough to meet 4.34 billion RINs in 2019 with meager

² According to EIA's July STEO report (Table 4a), motor gasoline consumption was on average 9.23 million barrels/day for 1H18. Fuel ethanol blended into gasoline averaged 0.92 million barrels/day. EIA, July 2018 Short-Term Energy Outlook at 41, <https://www.eia.gov/outlooks/steo/archives/jul18.pdf>.

³ *Id.* at 32,040.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 32,047.

⁷ *Id.* at 32,048

⁸ EIA, Monthly Biodiesel Production Report, Table 1: U.S. Biodiesel production capacity and production, <https://www.eia.gov/biofuels/biodiesel/production/table1.pdf>.

⁹ EIA, Petroleum & Other Liquids, U.S. Imports of Biomass-Based Diesel Fuel, https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=M_EPOORDB_IM0_NUS-Z00_MBBL&f=M (July 31, 2018 release date).

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imports. EPA's "Determination of Volume of Biodiesel and Renewable Needed in 2019" effectively requires 100% utilization rates and zero exports. This is completely unrealistic.

EPA also assumes unrealistically that higher domestic production is reasonably achievable. The registered domestic capacity totaling 4.1 billion gallons of total biodiesel and renewable diesel is irrelevant in this discussion as this volume is not reflective of actual domestic production. EPA should be relying on the EIA production capacity of 2.4 billion gallons. EPA acknowledges in the preamble "domestic production of advanced biodiesel and renewable diesel in 2016 and 2017 was approximately 1.85 billion gallons. Of this total, approximately 150 million gallons of domestically produced biodiesel was exported in 2016 and 2017."¹⁰ It is irrational for EPA to count on significantly higher production than in years past and no exports.

In short, EPA cannot finalize the proposed 4.88 billion gallons when that is premised on the uncertainty of attaining 2.8 billion gallons of BBD to achieve the advanced fuel mandate, "notwithstanding likely feedstock/fuel diversions."¹¹ If there is substantial doubt as to whether a quantity of renewable fuel is reasonably attainable, it is unreasonable for EPA to set the volume at that level. Valero agrees that EPA should not "propose to set the 2019 volume requirements at levels that would envision an intentional drawdown in the bank of carryover RINs."¹² 2.8 billion gallons of advanced biodiesel and renewable diesel for 2019 for the calculation of advanced biofuels is an unattainable volume and, therefore, is an intentional drawdown of the RIN bank balance. EPA should avoid this by using the general waivers to ensure that all RVOs are reasonably attainable without drawing down the RIN bank.

C. EPA Proposes Biomass-Based Diesel Volumes that Are Not Reasonably Attainable and Are Not Based on Domestic Supply

As described in previous comments and again below, EPA should define "domestic supply" to mean produced within the U.S. Thus, in its determination of what volume for BBD is reasonably attainable, EPA should consider domestic supply and not set the standard based on uncertain and costly imports. The promotion of imports is not consistent with the statutory purpose of protecting national security and promoting domestic resource development.

The domestic production capacity of BBD is 2.4 billion gallons/year at 100% utilization. While utilization is currently up year over year from 2017, it is not averaging near 2.4 billion gallons this year. In fact, annualized BBD domestic production is approximately 1.7 billion gallons for 2018. Excluding imports from "domestic supply," the proposed BBD RVO for 2020 is aspirational, not reasonably attainable.

¹⁰ 83 Fed. Reg. at 32,047.

¹¹ *Id.* at 32,040

¹² *Id.* at 32,030.

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D. Marine Ultra-low sulfur diesel Impact on Available Supply and Compliance Issues

In setting the applicable BBD volume for 2020, EPA must account for U.S. produced biofuel that is blended into ultra-low sulfur diesel ("ULSD") and used as a marine fuel oil cutter stock and reduce the mandated volume by that amount. With a January 1, 2020 compliance date for 0.5wt% sulfur IMO marine fuel oil, ULSD may be an optimum blend component to achieve the more stringent sulfur specification for marine fuel oil. Since marine fuel oil does not meet the definition of "transportation fuel," any biofuel blended into ULSD that is subsequently used as a fuel oil cutter stock will not qualify for RFS compliance. This scenario also creates an opportunity for errors in RIN generation and accounting as well as fraud.

III. EPA Should Preserve the RIN Carry-Over Bank

Valero agrees with EPA that EPA should not set the RVO at a level that would result in a reduction of the RIN bank. The RIN bank should be maintained at 14 percent or higher. In the proposal, EPA has noted that the RIN bank is currently at 15 percent of the proposed total renewable fuel standards and 14 percent of the proposed advanced biofuel standard.¹³ This level is below the 20 percent "rollover" limit specified in EPA regulations. EPA has previously determined that such a limit is consistent with the structure of the RFS while recognizing that credits must be available in the year generated and the year thereafter. When EPA set the 20 percent limitation, EPA stated that "the 20 percent cap provides the appropriate balance between, on the one hand, allowing legitimate RIN carryovers and protecting against potential supply shortfalls that could limit the availability of RINs, and on the other hand ensuring an annual demand for renewable fuels as envisioned by the Act."¹⁴ Valero does not dispute the 20 percent limit but recommends that EPA consider that the stability of the RIN market and improve the RFS so that the RIN bank is not drawn down and remains available to serve the purposes for which it was intended. EPA acknowledges that there are a number of uncertainties regarding how the RIN bank will be impacted in 2019. Therefore, EPA should not do anything in the 2019 RVO that is intended to or could be anticipated to result in drawing down the RIN bank.

Despite assurances not to set RVOs at levels that would draw down the RIN bank, EPA nonetheless proposes to set the advanced biofuel standard at a level that EPA suggests a large number of carry-over RINs may be necessary. If EPA's concerns about "likely fuel/feedstock diversions" come to fruition, the proposed volume for advanced biofuel will not be reasonably attainable and obligated parties will have to draw down the carryover RIN bank. As EPA recognizes, "a bank of carryover RINs is extremely important in providing obligated parties compliance flexibility in the face of substantial uncertainties in the transportation fuel marketplace, and in providing a liquid and well-functioning RIN market...."¹⁵ Preserving the RIN bank ensures compliance flexibility and depleting it can disrupt the functioning of the RFS program.¹⁶

¹³ 83 Fed. Reg. at 32,030

¹⁴ 72 Fed. Reg. 23,000, 23,934-35 (May 1, 2007)

¹⁵ 83 Fed. Reg. at 32,029.

¹⁶ *Id.* ("An adequate RIN bank serves to make the RIN market liquid...[W]e believe the RFS program functions best when sufficient carryover RINs are held in reserve....").

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EPA can avoid the potentially significant negative consequences of depleting the RIN bank by considering whether the use of one or both general waiver authorities is appropriate. This is one “circumstance[]...that would warrant further reductions in volumes through the exercise of the general waiver authority.”¹⁷ EPA has already determined that the volumes that will be reasonably attainable will fall short of the proposed advanced biofuel RVO. Using either or both general waiver authorities can correct this. As described further below, EPA should consider only the domestically produced renewable fuel to determine whether there is adequate domestic supply for meeting statutory mandates and EPA must consider the economic harm on refineries and refinery communities in evaluating use of the waiver for severe economic harm. EPA should not rely on the carry-over RIN bank to increase the RVO when the circumstances support use of one or both of the general waivers.

A sufficient volume in the RIN bank does not necessarily reduce economic harm. The RIN bank accounts for RINs that RIN-long parties and unobligated parties might still hold. As long as RIN-long parties and unobligated parties hoard RINs, the amount in the RIN bank does not reduce economic harm of the RFS. To improve the functioning of the RIN bank to relieve the economic harm under the RFS, EPA must address the RIN market problems that are due to the inequitable distribution of RINs among obligated parties. EPA could right the RFS and eliminate the inequitable distribution of RINs by adjusting the point of obligation. Short of this correction to the program, EPA must consider additional measures recommended below to reduce the harm that comes from RIN hoarding and other market manipulation. Without a market correction and an adequate RIN bank, the RFS will cause severe economic harm that demands EPA reducing the RVO through use of the general waiver.

IV. Recent Developments Should Compel EPA to Conduct a Full-fledged Analysis of Whether to Use the General Waivers

In the proposal, EPA summarily dismisses consideration of using general waivers for severe economic harm or inadequate domestic supply. Yet, in the past year, several developments demand that EPA evaluate use of the waiver for severe economic harm, including: (1) petitions to EPA requesting EPA grant waivers based on severe economic harm; (2) the bankruptcy of the PES refinery, the largest east coast refinery; (3) exemptions granted to over 30 small refineries; and (4) the court decision in *Ergon-West Virginia, Inc. v. EPA* rejecting EPA's reliance on analysis showing that the cost of the RIN passes through to conclude that a small refinery suffered no disproportionate economic hardship.¹⁸ Furthermore, irrationally high RIN prices continue to reflect a poorly-functioning RFS program. High RIN prices do not promote higher blends of renewable fuel¹⁹ and will continue to cause disproportionate economic harm not only to small refineries but to merchant refiners who are not eligible to seek small refinery exemptions.

¹⁷ 83 Fed. Reg. at 32,048

¹⁸ No. 17-1839, 2018 WL 3483282 (4th Cir. July 20, 2018).

¹⁹ See NERA Economic Consulting, Effects of Moving the Compliance Obligation under RFS2 to Suppliers of Finished Products 15-23 (2015), Attachment A; Ron Minsk, Comments on Proposed 2014, 2015, and 2016 RVO 2-4, 6-8 (June 24, 2015), Attachment B.

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Additionally, in response to EPA's expressed concerns about biofuel imports and tariffs imposed on biodiesel imports, EPA received numerous comments in 2017 about the definition of "domestic supply" and how to account for biofuel imports in the RFS. A year later, the market has experienced the initial impacts of these tariffs, proving the validity of some of the comments. Valero and others requested that EPA define "domestic supply" to include only renewable fuel produced in the United States.²⁰ EPA must determine whether there is adequate domestic supply of renewable fuel to meet the statutory volumes. Including only domestically produced renewable fuel as domestic supply for setting the RVO is a better means for ensuring that the RVO will be reasonably attainable; it eliminates the uncertainty and costs of imports. It is also consistent with congressional intent. Nonetheless, imported renewable fuel must still be available for compliance with the RVO and thus would only serve the purposes of the RFS to the extent imported renewable fuel is more economical than domestically produced renewable fuel.

A. EPA's Criteria for Identifying Severe Economic Harm is Too Limited, Unsupported by the Statute and Disregards the Reality of the Impacts of the RFS Program

Before 2017, EPA's review of economic harm caused by the RFS was limited to evaluation of production and prices of corn and ethanol; food expenditures for households, feed costs for cattle, pigs, poultry and dairy; and gasoline prices and expenditures for households.²¹ In the 2018 final RVO, EPA assessed economic harm in 2017 by looking again only at very limited criteria instead of considering information submitted by commenters during the comment period and submitted well before the comment period.²² EPA admitted that its 2017 analysis had significant limitations, which EPA attributed to time limits. Yet Congress gave EPA a time limit of 90 days to approve or disapprove petitions for waivers based on severe economic harm.²³ Congress did not authorize EPA to disapprove petitions or refuse to properly evaluate petitions on the basis of time constraints.

EPA's own characterization of its review was that of a "high level investigation of a number of broad economic indicators" that "may not be as useful in assessing the possibility that the RFS program would cause severe economic harm on a State or regional level, as compared to a national level."²⁴ Since 2017, EPA has had more than enough time to undertake a more in-depth investigation. Even in 2017, EPA was given early notice that small refineries and merchant refineries had incurred severe harm under the RFS and that small retailers also experienced substantial harm. EPA should not continue to hide behind the limited time between proposal and final annual rulemakings to shirk its responsibility to evaluate the evidence of economic harm provided in comments to every RVO rulemaking since 2015.

²⁰ See, e.g., Valero Comments on Proposed 2018 RVO (Aug. 31, 2017) (EPA-HQ-OAR-2017-0091-3988), Attachment C.

²¹ 83 Fed. Reg. at 32,048.

²² 82 Fed. Reg. 58,364, 58,518 (Dec. 12, 2017).

²³ 42 U.S.C. § 7545(o)(7)(B).

²⁴ David Korotney, EPA, Assessment of waivers for severe economic harm or BBD prices for 2018 at § A.2 (Nov. 30, 2017) (EPA-HQ-OAR-2017-0091-4925) ("Korotney Memo").

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EPA must evaluate whether economic harm would occur at the State or regional level and cannot rest a decision regarding economic harm only on evaluation at the national level based on broad criteria that has little relevance for the actual harms arising from the rule. EPA must also evaluate actual evidence and not rely on economic theory.

As further described below, EPA disregarded warnings of harm that already existed but were likely to become more apparent in 2018. For 2018, the only new information EPA considered was crop-based feedstock futures, projected gasoline demand and market impacts of ethanol and biodiesel consumption. EPA disregarded evidence provided by refineries impacted by the standard and small businesses losing to disruptive unfair advantages made possible by the RFS. In this rulemaking, EPA should not commit the same errors disregarding the evidence provided in 2018 of economic harm and disregarding pleas by states and impacted entities to provide relief from harm.

B. EPA Should Consider Evidence of Severe Economic Harm and Undertake Evaluation of Economic Harm Concerns

EPA received several requests to waive RVO volumes to reduce severe economic harm. The states of Texas, New Mexico, Delaware and Pennsylvania sent EPA requests²⁵ and several companies²⁶ and the Small Retailers Coalition made requests²⁷ in response to EPA's Notice of Data Availability in October 2017.²⁸ In addition, PES filed for bankruptcy in January 2018, directly contradicting EPA's claim that the RFS and the RVOs were not adversely impacting refineries.²⁹ Valero sent to EPA a Petition for Reconsideration³⁰ requesting EPA reconsider its decision to deny the Point of Obligations Petitions based on EPA's determination that there was no harm under the RFS. In that petition, Valero requested that EPA provide any other remedy to relieve the harm. Valero attaches the Petition for Reconsideration to these comments and incorporates it as part of these comments on the proposed RVO.

²⁵ EPA made these letters and its responses to them available to the public at <https://www.epa.gov/renewable-fuel-standard-program/learn-more-about-letters-seeking-additional-information-related>. They are included here as Attachments D, E, F, and G for convenience.

²⁶ AFPM Comments on 2018 Supplemental Notice 18 (Oct. 19, 2017) (EPA-HQ-OAR-2017-0091-4703) (requesting a 3.3-billion-gallon reduction of total renewable fuel and advanced biofuel volumes due to past reliance on now uncertain supply of imported renewable fuel); Valero Comments on 2018 Supplemental Notice 14 (Aug. 31, 2017) (EPA-HQ-OAR-2017-0091-4885) (requesting reduction in requirements for advanced and total renewable fuel), Attachment H; HollyFrontier Comments on Proposed 2018 RVO 9-10 (Aug. 31, 2017) (EPA-HQ-OAR-2017-0091-2547); PES Comments on Proposed 2018 RVO 3 (Aug. 31, 2017) (EPA-HQ-OAR-2017-0091-3887).

²⁷ Small Retailers Coalition Comments on Proposed 2018 RVO 1-8 (Oct. 19, 2017) (EPA-HQ-OAR-2017-0091-4687).

²⁸ 82 Fed. Reg. 46,174 (Oct. 4, 2017).

²⁹ Disclosure Statement for the Joint Prepackaged Chapter 11 Plan of Reorganization of PES Holdings, LLC and Its Debtor Affiliates, *In re PES Holdings, LLC*, No. 18-10122-KG (Bankr. D. Del. Jan. 22, 2018) ("PES Disclosure Statement"), Attachment I. Energy Ventures Analysis examined the circumstances that led to PES's bankruptcy and concluded that "the actual costs of the RFS are significant compared to its realized benefits, that [PES] and other east coast merchant refiners are absorbing the cost, and that the dramatic changes in energy markets since 2007 have rendered moot most of the goals of the RFS." EVA Comments on PES Holdings, LLC Proposed Consent Decree 1 (Mar. 26, 2018), Attachment J.

³⁰ Valero Petition for Reconsideration (Mar. 22, 2018), Attachment K.

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EPA's conclusion that the RFS does not cause harm to refineries or small retailers is based primarily on EPA's conclusion that the RIN costs are passed through in the wholesale price of petroleum fuels. The recent court decision in *Ergon-West Virginia, Inc. v. EPA*³¹ rejects EPA's reliance on this conclusion to determine disproportionate economic harm to individual refineries and challenges its utility to conclude that the RFS does not cause severe economic harm in any state, Region or the nation.³² EPA must undertake a new evaluation of the economic harm of the RFS and determine whether the harm is severe. It is inconsistent for EPA to ignore the waiver when granting over 30 small refinery exemptions based on economic harm and reaching a settlement with PES, which in total represent as much as 2.25 billion gallons.³³ That same kind of harm is affecting both regional economies and refineries that don't qualify for exemptions and don't declare bankruptcies. It is arbitrary and capricious for EPA to deny that there is harm arising from the RFS because of RIN value pass-through while EPA grants hardship exemptions based on disproportionate economic harm. By doing so, EPA is wading neck deep in the market distortion.

1. To date, EPA has interpreted the waiver provision too narrowly

To date, EPA's statutory interpretation of the severe economic harm waiver provision has been an unreasonable interpretation. EPA narrowly interpreted the provision to require proof that a single market factor—RFS volume requirements—is the sole cause of the harm.³⁴ EPA's interpretation undermines the purpose and utility of the statutory waiver. It is hard to imagine how EPA's test might ever be met, given that the RFS requirements interact with many factors contributing to the economy of the nation, a state, or a region. EPA cannot, through interpretation, nullify the effect or purpose of a statute.

Various factors make states and regions uniquely vulnerable to harm from implementing RFS requirements and cause those areas to experience such harm more acutely. For example, economic analysis identified East Coast and Mid-continent refiners as facing the “most risk” from the RFS Program due to “their higher operating costs, significant logistical challenges in sourcing crude oil, and direct competition from large foreign based refiners....”³⁵ EPA unreasonably interpreted the statute to make those factors disqualifiers that precluded a finding of severe harm. EPA should reconsider this interpretation and consider the evidence already available of economic harm caused by the RFS.

³¹ No. 17-1839, 2018 WL 3483282, at *8.

³² In addition, EPA's previous analyses on pass-through “ignores the fact that different entities are differentially situated at the rack. EPA fails to explain...how a merchant refiner such as [PES] can recover RIN costs when competing at the rack with a blender or marketer that has no obligation under the RFS. Merchant refiners would be similarly disadvantaged when competing against an integrated refiner which blends in excess of its RFS obligation and thus would not face the same costs at the rack...These competitive dynamics leave merchant refiners...to disproportionately bear the cost of increasing RIN obligations.” EVA Comments 6.

³³ 83 Fed. Reg. at 32,029 (explaining that the 3.06 billion carryover RIN bank includes 1.460 million RINs attributable to small refinery hardship exemptions for 2017 and 790 million RINs attributable to small refinery hardship exemptions for 2016 and the PES bankruptcy settlement).

³⁴ Korotney Memo at § A.3.

³⁵ Alex Holcomb, *Market Analysis of the Proposed Change to the RFS Point of Obligation* 15 (Feb. 22, 2017) (EPA-HQ-OAR-2017-0091-3988), Attachment L.

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This is not a theoretical problem. A month after EPA published the 2018 RVO, Philadelphia Energy Solutions (“PES”), the largest refiner on the East Coast, declared bankruptcy. PES identified the primary event precipitating the bankruptcy as RFS compliance costs.³⁶ Comments on the 2018 Rule foreshadowed this, explaining that RIN volatility had caused rating agencies to downgrade PES’s credit and classify its outlook as “negative.”³⁷ Comments further detailed that, by any metric, economic harm resulting from shutdown of PES refineries would be “severe.”³⁸ “[F]or every 100 jobs lost, Pennsylvania would lose over \$128 million in labor income, \$21 million in state and local taxes, and over \$797 million in output.”³⁹ Pennsylvania’s Governor Tom Wolf put it succinctly: “The current and proposed Renewable Volume Obligations are putting thousands of good paying jobs in my state and elsewhere at risk.”⁴⁰ EPA categorically dismissed these real concerns as lacking “sufficient evidence that the purchase of RINs, as opposed to other market factors, is responsible for the company’s difficult economic circumstances”⁴¹ EPA should not dismiss these concerns and the evidence provided in comments submitted in 2017 and additional evidence of harm in 2018.

EPA’s restrictive interpretation is inconsistent with the statute. In *Americans for Clean Energy v. EPA* (“ACE”),⁴² the D.C. Circuit invalidated EPA’s overly broad interpretation of “supply” in the general waiver provisions, concluding that breadth was unnecessary because the severe economic harm waiver protected against harmful volume requirements.⁴³ Interpreting that protection too narrowly, as EPA did in the 2018 RVO rule, equally offends the statutory language and purpose.

2. *EPA must undertake analysis of harm at the state and regional levels*

In the 2018 RVO rulemaking, EPA admittedly undertook no independent analysis of harm at the state or regional level because “an analysis tailored to assessing State or regional impacts was not practical to accomplish within the timeframe”⁴⁴ Aside from EPA’s “high-level” review, which admittedly “has limitations,”⁴⁵ EPA’s determination rests on “belie[f]” that 2018 market conditions are unlikely to make RFS compliance “more economically challenging,” and assurance that 2018 standards are “very similar” to the 2017 standards.⁴⁶ The evidence of harm in 2018 demonstrates that EPA’s assumptions were wrong. EPA should take a closer look at the evidence provided and undertake a more robust evaluation.

³⁶ PES Disclosure Statement 25, Attachment I.

³⁷ PES Comments on Proposed 2018 RVO 2-3.

³⁸ *Id.* at 3.

³⁹ *Id.*

⁴⁰ Gov. Tom Wolf, Petition for RFS Waiver Under CAA Section 211(o)(7)(A)(i) at 2 (Nov. 2, 2017), Attachment D.

⁴¹ 82 Fed. Reg. at 58,517.

⁴² 864 F.3d 691, 737 (D.C. Cir. July 28, 2017) (“ACE”).

⁴³ *ACE*, 864 F.3d at 714.

⁴⁴ Korotney Memo § A.2.

⁴⁵ *Id.*

⁴⁶ 82 Fed. Reg. at 58,518.

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3. *The basis of EPA's determination of harm has been rejected by a federal court*

To find an absence of harm, EPA relies on a 2015 theoretical assessment of RIN-price effects on the market as a whole,⁴⁷ while disregarding specific evidence of actual harm. EPA's conclusory reliance on the same preliminary assessment in denying a small refiner exemption was recently held arbitrary and capricious. In *Ergon-West Virginia, Inc. v. EPA*, the Fourth Circuit ruled that "EPA's analysis of the effect of RIN prices on Ergon's refining facility was arbitrary...because EPA ignored specific evidence suggesting that those prices had a negative effect."⁴⁸ As in *Ergon*, in its determination in 2017 and in this proposal, EPA ignores actual data regarding state and regional economic jeopardy and dramatically skyrocketing refinery operating costs.⁴⁹

The decision in *Ergon* applies here to EPA's evaluation of whether there is severe economic harm arising from the RFS. EPA cannot rely on an industry-wide study and a non-specific nationwide trend:

Insomuch as the EPA cited generally to an industry-wide study and a nonspecific nationwide trend to find that RIN prices would not harm Ergon although Ergon provided specific, contradictory evidence of hardship particular to its refinery due to RIN costs, the EPA failed to squarely address Ergon's petition with regards to RIN costs and "explain[ed] its decision in a manner contrary to the evidence before it."

Furthermore, the EPA's disregard for Ergon's RIN arguments appears inconsistent with its statement earlier in the 2016 decision that the EPA considers "RIN prices[] and the cost of compliance through RIN purchases" in making its determination. J.A. 327; accord J.A. 201 (explaining in a December 2016 memorandum that the EPA considers "RIN prices[] and the cost of compliance through RIN purchases" in evaluating a petition). Consequently, the EPA's cursory consideration and failure to address Ergon's specific evidence regarding RIN costs was an arbitrary and capricious action.⁵⁰

⁴⁷ Kortoney Memo § A.2.b n.20.

⁴⁸ No. 17-1839, 2018 WL 3483282, at *8 (4th Cir. July 20, 2018)

⁴⁹ PES Comments on 2018 Proposed RVO 2 (Aug. 31, 2017) (EPA-HQ-OAR-2017-0091-3387) (PES "needs to spend another \$369 million [on RINs] by March 31, 2018"); Valero Comments on 2018 Supplemental Notice 10 (Oct. 19, 2017) (EPA-HQ-OAR-2017-0091-4885) ("The harm to Valero that can be expected from the 2018 RVO is over \$850 million."), Attachment H; Monroe Energy Co. Comments on 2018 Supplemental Notice 18 (Oct. 19, 2017) (EPA-HQ-OAR-2017-0091-4645) ("RIN costs currently exceed every category of expense other than the crude oil Monroe purchases to refine.").

⁵⁰ *Ergon*, No. 17-1839, 2018 WL 3483282, at *26.

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4. *EPA must also consider the harm to small retailers and the effect of the RIN market in creating or contributing to dramatically unfair competition in the retail market*

EPA must not continue to ignore the severe economic harm nationally that threatens the viability of small petroleum retailers, which comprise approximately 75% of fuel retailers nationwide. Comments in 2017 explained that excluding blenders from RFS obligations has allowed large, integrated retailers to use billions of dollars in RIN profits to push small retailers, who cannot recoup finished-fuel costs by selling RINs, out of business.⁵¹ EPA must not only consider the harm occurring in recent years, every year, but also what that harm means for changes in the marketplace for small businesses, communities relying on small businesses, and, in the long-term, what it is likely to mean for consumers. With the unfair competition made easier by the RIN market, large retailers have experienced growth and are squeezing out small businesses and small retailers, reducing the competition in the market for consumers. This increased consolidation is not good for consumers. Unfortunately, if EPA waits to see more absolute proof of the harm, it will be too late to correct.

EPA should not continue to act arbitrarily and contrary to the statute by failing to exercise the severe economic harm waiver.

C. EPA Must Give Meaning to the Statutory Definition of “Inadequate Domestic Supply”

Even after the D.C. Circuit's decision in *ACE*, EPA retains substantial discretion to use the general waiver authority for inadequate domestic supply. EPA should appropriately define “domestic supply” as the supply of renewable fuel produced in the U.S. and evaluate whether that supply, in terms of both its existence and its cost, is adequate to support annual requirements. EPA may define “inadequate” to include consideration of the cost of compliance. In other words, “domestic supply” means the amount of renewable fuel produced within the United States and the determination of whether that supply is “inadequate” includes not simply domestic supply but also the expected costs to obligated parties for using that supply and any other sources of renewable fuel for compliance. EPA must consider RIN prices as evidence of the costs of compliance and the costs of the renewable fuel supply used for compliance.

1. *EPA should reconsider the interpretation of the provision and decisions made in 2017*

In the 2017 Supplemental Notice for the 2018 RVO, EPA expressed “concern[] about the high cost of advanced biofuels” and the impact of imports and exports on the nation's energy independence and security.⁵² EPA enumerated several reasons to interpret “domestic supply” as referring to “volumes of domestically-produced renewable fuels.”⁵³ Under that interpretation,

⁵¹ Small Retailers Comments on Proposed 2018 RVO 3-6 (Aug. 31, 2017) (EPA-HQ-OAR-2017-0091-3572).

⁵² 82 Fed. Reg. 46,177.

⁵³ *Id.* at 46,177-78.

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EPA would “consider only whether there was an adequate supply of domestically produced volumes to satisfy the statutory volume targets.”⁵⁴ EPA reasoned:

- This interpretation is “consistent with a straightforward reading of the term ‘domestic supply’ as referring to volumes of domestically-produced renewable fuels”;
- It “may better meet the energy independence and security purposes of EISA”; and
- History demonstrates that projecting supplies of foreign-produced renewable fuel available for import “is extremely difficult.”⁵⁵

EPA invited comments on this interpretation and the possibility of applying it to reduce advanced biofuel and total renewable fuel volume requirements.⁵⁶ Just two months later, however, EPA found it “unnecessary”⁵⁷ to adopt the interpretation that Notice suggested was “appropriate.”⁵⁸ We urge EPA to reconsider the interpretation to align more closely with the statute and the plain meaning of the terms.

“Domestic” is defined as originating in, pertaining to, or relating to a country’s internal affairs. A “domestic” orange is one grown in the United States, not one grown in Brazil and transported here for sale. Likewise, the “domestic supply” of renewable fuel does not encompass fuel imported from abroad. “Domestic” must be given meaning. The statutory context of the phrase “inadequate domestic supply” reflects a focus on events within the United States. The waiver is paired in the same subsection with a waiver focused on harm to “a State, a region, or the United States.”⁵⁹ Other RFS provisions likewise emphasize domestic concerns.⁶⁰ The legislative history also indicates Congress was focused on domestic production of renewable fuels.

Comments in 2017 addressed a number of issues regarding EPA’s interpretation of the waiver provision. We urge EPA to review those comments as part of this 2019 RVO rulemaking and interpret the provision consistent with the goals and plain meaning of the statute. Commenters explained how treating foreign imports as “domestic supply” would negatively affect energy security and independence. Reliance on imports invites supply chain risk, does not ensure that lifecycle greenhouse gas requirements are met, and incentivizes additional foreign production to the detriment of domestic producers.⁶¹ Commenters provided ample evidence that, properly

⁵⁴ *Id.* at 46,177.

⁵⁵ *Id.* at 46,178.

⁵⁶ *Id.*

⁵⁷ 82 Fed. Reg. at 58,516.

⁵⁸ 82 Fed. Reg. at 46,178.

⁵⁹ 42 U.S.C. § 7545(o)(7)(A).

⁶⁰ *See, e.g., id.* § 7545(o)(2)(B)(ii) (when setting volume requirements after 2022, EPA must consider “energy security of the United States...infrastructure of the United States...job creation...rural economic development, and food prices”).

⁶¹ Valero Comments on Proposed 2018 RVO 7-9, Attachment C; *see also* AFPM/API Comments on Proposed 2018 RVO 31-33 (Aug. 31, 2018) (EPA-HQ-OAR-2017-0091-3645); AFPM Comments on 2018 Supplemental Notice (providing additional data on biomass-based diesel and proper interpretation of EPA’s waiver authorities).

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interpreted, “domestic supply” was inadequate to meet statutorily-required volumes. Imports of foreign-produced fuel are not de minimis. EPA determined that imported advanced biofuel and biomass-based diesel contributed 2.298 billion RINs to total supply in 2016, or over 12.5% of that year’s total renewable fuel requirement.⁶² And EPA admitted “uncertainty” regarding whether domestic advanced biofuel could “compensate...for volumes that would not be provided through imports.”⁶³ The same conditions still exist today.

EPA must first resolve the issue of whether the term “domestic supply” should include consideration of imports *and then* consider whether use of the inadequate domestic supply waiver is necessary.

2. *EPA Must Include Only Domestically-Produced Biofuel to Determine Whether There is Adequate Domestic Supply for Meeting Statutory Volumes*

EPA should not include foreign produced biofuel imports as “domestic supply.” The RFS should not be designed to mandate fuel imports as it currently does for cellulosic, BBD, and advanced renewable fuel. EPA should set the RVO for cellulosic, BBD, and advanced renewable fuel to promote the domestic production of advanced renewable fuel but not to promote or mandate renewable fuel production in other countries. In implementing the D.C. Circuit’s directive to consider only “domestic supply” for setting the RVO and determining whether to use waiver authority, EPA must interpret the statute in a manner that is consistent with the goals of the statute—energy independence and security. Promoting or mandating renewable fuel imports to replace domestically produced petroleum fuels is not consistent with the goals of the statute. The RVO for cellulosic, BBD, and advanced renewable fuels must be set at levels that can be met with domestic production, not foreign production.

In addition, imports should not be included because of the difficulty in predicting with any confidence how much the U.S. will import in a given year as well as the difficulty in overseeing foreign production to ensure that imported fuel counted toward RFS compliance in fact meets the statute’s requirements.

a. Excluding imports is consistent with the statutory text and goals

The “inadequate domestic supply” waiver provision allows EPA to waive RFS statutory applicable volume requirements upon a determination that there is an “inadequate domestic supply” of renewable fuel.⁶⁴ The logical corollary is that EPA must consider the adequacy of domestic supply when setting the RVO each year. Neither Congress nor EPA has defined “domestic supply.” In the past, EPA has interpreted “domestic supply” to mean the amount of fuel available in the United States for consumption by the consumer.⁶⁵ The D.C. Circuit invalidated EPA’s interpretation of “supply” to mean “supply to the ultimate consumer.”⁶⁶ Because Congress chose to include the term “domestic” to modify “supply,” EPA must consider giving some meaning

⁶² 82 Fed. Reg. at 46,177, Tbls. III-1, III-2.

⁶³ *Id.* at 58,517.

⁶⁴ 42 U.S.C. § 7545(o)(7)(A), (D).

⁶⁵ 80 Fed. Reg. 77,420, 77,435 (Dec. 14, 2015).

⁶⁶ *ACE*, 834 F.3d at 696.

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to “domestic” rather than assuming all “supply” of renewable fuel means “domestic supply.” In light of the D.C. Circuit’s views limiting EPA’s overreach in defining “supply,” EPA should consider how to define “domestic” to align with the purposes of the statute. EPA includes within its estimation of the available domestic supply projected volumes of imported renewable fuel.⁶⁷ EPA’s interpretation of “domestic supply” to include imported renewable fuel is contrary to the statutory purpose of the RFS.⁶⁸

Congress enacted the RFS program in an effort to promote energy security by reducing America’s dependence on fuel imports; it also wanted to promote growth in domestic energy jobs and domestic renewable fuel production. Given those goals, including foreign production of renewable fuels in the calculation of the domestic supply makes no sense, because foreign production and imports are an obstacle to energy independence, not an aid to it. Consequently, when assessing the adequacy of the domestic supply of renewable fuel, EPA should focus only on domestic production so that it does not obligate domestic refiners to purchase foreign renewable fuel. Failing to do so could lead to unintended consequences, as previously described by API:

A direct implication of setting renewable fuel volume standards that exceed the ethanol blendwall is that it encourages imported biodiesel that is produced from palm oil. EPA’s own analysis finds that biodiesel produced from palm oil fails to meet GHG emission reduction requirements of the RFS, except it is allowed if it meets grandfathering provisions of [the Energy Independence and Security Act of 2007 (“EISA”)]. Biodiesel imports into the U.S. from Indonesia, a leading palm oil producing country, have increased from zero in 2012 to 73 million gallons in 2015. This outcome of increased palm oil biodiesel consumption in the U.S. is another inconsistency with EISA’s stated purpose to [sic] “...to increase the production of clean renewable fuels”⁶⁹

b. Foreign supply available for import is difficult to predict and to oversee

Reliance on imports subjects obligated parties to unnecessary supply risks. The quantity of renewable fuel that can be imported is very difficult to predict. Market forces could direct volumes of exported renewable fuels to countries other than the United States. When projecting available supplies of renewable fuel for future compliance years, EPA typically relies on production in previous years. Thus, inclusion of foreign supplies in the volumetric requirements for any one year tends to increase the volume of renewable fuel that EPA projects is available in the future. Relying

⁶⁷ See, e.g., 81 Fed. Reg. 89,746, 89,783 (Dec. 12, 2016).

⁶⁸ This assertion is not counter the court’s statement in *ACE v. EPA* that its “interpretation of supply allows EPA to consider the amount of renewable fuel available through import....” *ACE*, 864 F.3d at 711. There, the court was construing the term “supply” as it relates to the person being supplied. In addressing an argument by EPA, the court pointed out that interpreting “supply” to mean supply to the obligated party does not make “supply” synonymous with “production.” *Id.* The court noted that, “for example,” “supply” could include imported fuel and not only fuel production. *Id.* The court was not construing the term “domestic” and did not have before it any question as to the appropriateness of including imported fuel in a determination of “domestic” supply. *Id.* at 34-35. The court’s comment is dicta and has no bearing on the construction of statutory terms not before it in that case.

⁶⁹ API, Comments Proposed 2017 RVO 23 (Aug. 10, 2016) (EPA-HQ-OAR-2016-0004-3512) (internal citations omitted).

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on past performance as indicative of future performance risks improperly “locking in” such production, increasing future dependence on that foreign production.

Furthermore, EPA lacks the ability to oversee production outside of the United States and thus, cannot confirm that the renewable fuel produced abroad satisfies the greenhouse gas reduction and other requirements in the statute. Furthermore, EPA cannot easily enforce the requirements of the statute against the foreign producer even if it discovered a violation. Despite this, at least two Indonesian biodiesel producers have qualified for RINs even though their biodiesel generally does not meet the RFS program's minimum greenhouse gas reduction threshold.⁷⁰

3. The Determination of “Inadequate” Must Consider the Costs to Obligated Parties for Compliance

Since EPA designed the RFS so that compliance can be met by either purchasing renewable fuel and blending or through the purchase of separated RINs, EPA must consider the adequacy of domestic supply of renewable fuel in this context. In evaluating whether the supply of renewable fuel is adequate for purposes of a reasonable RVO, EPA must consider not only the costs of compliance by purchasing and blending renewable fuel into transportation fuel in the U.S. but must also consider whether the supply is adequate to ensure that RIN prices are stable and reasonable. Where the domestic supply is not sufficient to ensure stable and reasonable RIN prices, the supply is inadequate. As evidenced by RIN price history since 2014, the supply of RINs has demonstrated that the supply of renewable fuel is inadequate. EPA should waive statutory volumes to reduce the costs of compliance with the RFS.

V. EPA Cannot Re-Allocate RFS Obligations to Account for Small Refinery Exemptions

In designing the RFS, Congress made it clear that EPA was to set annual standards by November 30 prior to the year for which the standards would apply.⁷¹ Congress also provided EPA authority to exempt small refineries from the standards if meeting the standards would cause disproportionate economic harm for a small refinery.⁷² If EPA issues exemptions after EPA has set the annual standard, the statute does not allow EPA to adjust the annual standard for that year or the percentage requirements to account for exemptions granted for that year's annual standard. To do so would be contrary to the statute as well as run afoul of the due process owed to obligated parties who might bear a greater burden of the annual standard. It would also run afoul of the presumption against retroactive regulation.

The CAA establishes statutory targets for four nested types of renewable fuel.⁷³ EPA's responsibility is to annually publish “the renewable fuel obligation” in percentage form that

⁷⁰ 82 Fed. Reg. 40,748 (Aug. 28, 2017).

⁷¹ 42 U.S.C. § 7545(o)(3)(B)(i).

⁷² *Id.* § 7545(o)(9).

⁷³ *Id.* § 7545(o)(2)(B)(i).

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“ensures” these requirements are met.⁷⁴ In doing so, EPA considers whether to use one or more waiver authorities to reduce the applicable volumes established by Congress.⁷⁵ EPA must consider different criteria in deciding whether to use its waiver authorities, but *none* of them allows EPA to *increase* an annual standard to account for volumes not met in prior years either because of waiver or because of volumes attributable to exempt small refineries. In fact, nothing in the statute permits EPA to increase volumes in any year to account for the waiver or exemptions granted for previous year RVOs. To do so would be contrary to the statute as well as run afoul of the due process owed to obligated parties who might bear a greater burden of the annual standard.

In addition, Congress also designed the RFS to mandate no more than 15 billion gallons of conventional ethanol in any year and no more than 4.5 billion gallons of non-cellulosic advanced biofuel in 2019.⁷⁶ EPA would be in danger of violating these limitations in a given year if it were to re-allocate exempt small refinery volumes from the prior year.

Although Congress provided EPA authority to exempt small refineries that may experience disproportionate economic hardship, nothing in these provisions authorizes EPA to re-allocate these volumes.⁷⁷ The only adjustment the statute allows EPA to make to account for small refinery exemptions is an adjustment to the applicable percentage to account for use of renewable fuel by small refineries that were exempt in the prior year.⁷⁸ In other words, when exempt refineries still use renewable fuel, those volumes should count toward compliance with the mandate and EPA can reduce the annual percentage applicable to obligated parties in setting the next year's RVO to account for “the use of renewable fuel during the previous calendar year by small refineries that are exempt.”⁷⁹

Moreover, Congress also recognized that the RFS might cause broader economic harm that may not be remedied with small refinery exemptions.⁸⁰ Re-allocation of RVO volumes to non-exempt obligated parties will cause broader economic harm and amount to unreasonable compliance burdens for non-exempt refineries. As discussed above, EPA has noted that the RIN carry-over bank is important for compliance flexibility. The RIN carry-over bank has increased from 11% for 2017 to 14% for 2018. Without the small refinery exemptions and the PES settlement, which account for as much as 2.25 billion RINs, the RIN carry-over bank would not currently hold 3.06 billion RINs; there would have been a drawdown of the RIN carry-over bank. It would no longer serve the critical role that EPA claims it must serve. Re-allocation of the RVO obligation to non-exempt refineries would also mean drawing down the RIN bank, an action that

⁷⁴ *Id.* § 7545(o)(3)(B)(ii)(II). EPA must also obligate the “appropriate parties” as a “required element” of its annual rulemaking. *Id.* § 7545(o)(3)(B)(ii)(I).

⁷⁵ *Id.* § 7545(o)(7).

⁷⁶ The annual cap on conventional biofuels—*i.e.*, ethanol—is implied. It is the difference between the total renewable fuel and advanced biofuel volumes. The cap on non-cellulosic advanced biofuels is 4.5 billion gallons in 2019. It is the difference between the advanced biofuel and the cellulosic biofuel volumes. *See* 83 Fed. Reg. at 32,028 n.10.

⁷⁷ 42 U.S.C. § 7545(o)(9)(B)(i).

⁷⁸ *Id.* § 7545(o)(3)(C)(ii).

⁷⁹ *Id.* § 7545(o)(3)(C)(ii).

⁸⁰ *See*, EPA's authority to reduce the applicable volumes when the Agency determines they would “severely harm the economy or environment of a State, a region, or the United States,” *id.* § 7545(o)(7)(A)(i); or when there is an “inadequate domestic supply,” *id.* § 7545(o)(7)(A)(ii); or when there is a “significant renewable feedstock disruption or other market circumstances” that would increase the price of BBD, *id.* § 7545(o)(7)(E)(ii).

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EPA has repeatedly said is not what EPA intends to do when setting the RVO, bringing the system to the brink of illiquidity (further complicating the placement of the obligation in the wrong location in the system).

VI. EPA Should Remove the Export RVO and Treat All Domestically-Produced Renewable Fuel Equally

EPA should revise the RFS to allow all domestically produced biofuel to be used for compliance under the RFS, including ethanol exported for use as transportation fuel and exported biodiesel. EPA should eliminate the export RVO, eliminate the denaturant prerequisite for RINs for renewable fuel, and allow RINs for all exported biofuels. These revisions will promote the purposes of the RFS by supporting domestic renewable fuel production, correct EPA's punitive treatment of exports under the current program rules, and add much-needed liquidity to the RIN market.

Such changes more closely adhere to the text of the RFS statute and contrary to assertions by some, the changes will not destroy demand for ethanol or biodiesel or for renewable fuel feedstocks at home.

A. The current system is inconsistent with the RFS statute

From the start of the RFS program, EPA treated exported renewable volumes outside the realm of the program. EPA devised a parallel program under which RINs attached to renewable fuel that is exported cannot be used by a party to comply with its RVO.⁸¹ Instead, the RINs must be retired with no compliance benefit under a separate export RVO ("ERVO").⁸² In this way, the RFS program has historically kept off-the-books volumes of renewable fuel *produced in the United States* that otherwise would count toward compliance under the RIN accounting system.

This anomalous treatment of exported renewable volumes has no basis in the statute, which focuses on the introduction into commerce of renewable fuel, not on the geography of disposition or consumption of the fuel.⁸³ The plain language of 42 U.S.C. § 7545(o)(2) and (o)(3) requires EPA "ensure that transportation fuel sold or introduced into commerce in the United States . . . , on an annual average basis, contains at least the applicable volume of renewable fuel, advanced biofuel, cellulosic biofuel, and biomass-based diesel" provided in § 7545(o)(2)(B).⁸⁴ Under the statute, renewable fuel is by definition transportation fuel, whether ultimately used in or outside the United States.⁸⁵ "Introduction" into commerce is not synonymous with "used" or

⁸¹ 40 C.F.R. § 80.1130 (replaced under RFS2 with the very similar 40 C.F.R. § 80.1430); *see also* 40 C.F.R. § 1427(c).

⁸² EPA accomplishes this by imposing a parallel regulatory obligation applicable only to exported volumes, known as an Export Renewable Volume Obligation ("ERVO"). Meeting an ERVO has no relation to the statutory compliance obligation required by the statute.

⁸³ In fact, there are indications in the statute to the contrary, that Congress intended to place no restriction on the geographic distribution of renewable fuel. *See* 42 U.S.C. § 7545(o)(2)(A)(iii)(II)(aa) (prohibiting any regulations that "restrict geographic areas in which renewable fuel may be used.").

⁸⁴ 42 U.S.C. § 7545(o)(2)(A).

⁸⁵ *See id.* § 7545(o)(1)(J) ("The term 'renewable fuel' means fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.").

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“consumed.”⁸⁶ Therefore, if the renewable fuel is produced and offered for sale to anyone while the fuel is physically in the U.S., then it would be “introduced in commerce in the United States,” regardless of whether it is destined for export. As a result, this plain language calls for providing that all renewable fuel introduced in the U.S. can generate credits toward compliance with the renewable fuel mandate in the statute.

There is nothing in the text of the statute that forecloses this interpretation. Nor does the legislative history indicate that Congress intended to create a disparity between domestically produced renewable fuel that is exported and renewable fuel used in the United States.

The ERVO is contrary to how the RFS program is supposed to work—incentivizing increased renewable fuel production year-over-year. As the D.C. Circuit recently observed, “[T]he Renewable Fuel Program’s increasing requirements are designed to force the market to create ways to produce and use greater and greater volumes of renewable fuel each year.”⁸⁷ EPA’s interpretation of § 7545(o) to treat consumption as the measurement of compliance with the statutory volumes “flouts that statutory design” because instead of forcing greater production, the ERVO creates a disincentive for further domestic production.⁸⁸ EPA cannot continue with such a “goal-defying (much less that text-defying) statutory construction.”⁸⁹ Designed correctly, the RFS can promote continued growth in domestic biofuel production. Eliminating the ERVO would remove the burden on exports and incentivize further increases in production—a conclusion supported by a recent report issued by Charles River Associates.⁹⁰

That EPA has previously *misinterpreted* the statute does not mean the Agency is forever required to maintain its faulty interpretation. The agency can change course to one consistent with the statute as long as it provides a reasoned explanation for doing so.⁹¹ “[P]revious statutory violations,” of course, “cannot excuse” new ones.⁹² Regardless of EPA’s policy preference for encouraging the domestic consumption of renewable fuel, exported renewable fuel is part of the U.S. supply of renewable fuel. Therefore, to be true to the statutory text, RINs associated with exported renewable volumes should also be available for compliance with the annual RVO.

⁸⁶ See, e.g., *United States v. Hill*, 248 U.S. 420 (1919) (“Commerce includes the transportation of persons and property no less than the purchase, sale, and exchange of commodities.”); *Bell v. Porter*, 159 F.2d 117, 119 (7th Cir. 1946), *cert. denied*, 330 U.S. 813 (1947) (Goods may move in commerce though they never enter the field of commercial competition).

⁸⁷ *ACE*, 864 F.3d at 710.

⁸⁸ *Id.*

⁸⁹ *Id.* (quoting *Advocate Health Care Network v. Stapleton*, 137 S. Ct. 1652, 1662 (2017)).

⁹⁰ Charles River Associates, *Balancing the Treatment of Ethanol Exports, Imports, and Consumption in the Renewable Fuel Standard 2* (Aug. 2017), provided here as Attachment M.

⁹¹ *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). In fact, a “change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency’s reappraisal” of its regulations and programs. *Nat’l Ass’n of Home Builders v. EPA*, 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012) (citing *Fox*, 556 U.S. at 514-15 (Rehnquist, J., concurring in part and dissenting in part)).

⁹² *New Jersey v. EPA*, 517 F.3d 574, 583 (D.C. Cir. 2008).

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B. Eliminating the ERVO Makes Policy Sense and Serves the Goals of the Program

Eliminating the ERVO is not only consistent with the statute, it is good public policy because it better serves the purposes of the RFS—domestic job creation, energy independence and security, and increased domestic production of renewable fuels—than the program's current punitive treatment of exports. The proposed change will also remove a distortion that makes America less competitive in global markets without undermining the greenhouse gas-reduction benefits of the RFS. Such a change has already been suggested by the Bipartisan Policy Center in a 2014 report, which suggested that “eliminat[ing] the exporters' RVO” could allow “the export of biofuels [to] meaningfully contribute to satisfying the RFS mandates.”⁹³

1. Allowing RINs for exported renewable fuel corrects the distorted position of exports in comparison to domestically-consumed fuels and in global markets

The ERVO creates a disparity between volumes of domestic renewable fuel that remain in the United States and those that do not and it gives preferential treatment to imports. Because RINs associated with exported renewable fuel must be retired against a fictional RVO, this fuel is disadvantaged in comparison with domestically-produced renewable fuel that remains in the United States. This distinction is not rational when *all* domestically-produced renewable fuel serves the purposes of the RFS statute and benefits domestic producers. Treating domestically consumed ethanol and exported ethanol equally will drive up ethanol production, increase demand for corn, generate additional value for ethanol producers, create jobs and support American energy dominance—a goal of the current administration.⁹⁴

Similarly, EPA's current regulations have a punitive effect on exports. Imported renewable fuel does not serve the purposes of the program, but foreign-produced volumes imported into the United States receive preferential treatment in the form of a RIN that can be separated upon blending and either used for annual compliance purposes or sold. Meanwhile, and at the expense of greater energy independence and security, biofuels produced in the U.S. that are ultimately used in place of petroleum-based transportation fuel abroad do not generate a RIN. Eliminating the ERVO so that these volumes generate RINs that can be used for RFS compliance would remove this penalty on exports. Such a regulatory change would improve the competitive price position of U.S.-produced ethanol in global markets⁹⁵ and drive additional demand for U.S. corn. The value of the RIN would assist exporters in overcoming protective tariffs of importing countries, making increased mandates in other countries more economical.⁹⁶

⁹³ Bipartisan Policy Center, *Options for Reforming the Renewable Fuel Standard* 30 (Dec. 2014), Attachment N.

⁹⁴ President Trump Vows to Usher in Golden Era of American Energy Dominance, <https://www.whitehouse.gov/articles/president-trump-vows-usher-golden-era-american-energy-dominance/> (June 30, 2017).

⁹⁵ Charles River Associates, *Unobligated RINs for Renewable Fuel Exports: Impact on Ethanol Volumes* (Oct. 16, 2017), Attachment O.

⁹⁶ Charles River Associates, *Balancing the Treatment of Ethanol Exports* 2, Attachment M.

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By increasing demand for American ethanol, export RINs will support the price of ethanol and allow plants to run at higher rates. This will help maintain America's position as the best ethanol manufacturer in the world. Most importantly, smaller producers and co-ops will, for the first time, be able to capture the economic upside of RINs. Historically, separating and selling a RIN by biofuel producers generally required direct control of gasoline blending infrastructure. Going forward, ethanol producers who export their products can capture RIN values for themselves.

2. Eliminating the ERVO supports the goals of the RFS program

Allowing RINs for exported renewable fuel would better support the statutory goals of the RFS than the current regulatory regime. Those goals are chiefly (1) job creation;⁹⁷ (2) "greater energy independence and security"; and (3) "increase[d] . . . production of clean renewable fuels."⁹⁸

The U.S. exported nearly 1.5 billion gallons of renewable fuel in 2017, setting a new record for ethanol exports.⁹⁹ This represents *actual* domestic production but this fuel does not generate RINs. EPA acknowledges that

the rate of growth in the use of ethanol in the U.S. has decreased in recent years as a result of a number of factors, including that the gasoline market has to a large degree become saturated with gasoline that contains 10 volume percent ethanol (E10), favorable blending economics diminish for gasoline-ethanol blends beyond E10, gasoline demand has leveled off, and efforts to expand the use of higher ethanol blends such as E15 and E85 have not been sufficient to maintain past growth rates in total ethanol use.¹⁰⁰

This means that continued growth in domestic ethanol production depends in large part on appropriately incentivizing exports of ethanol.¹⁰¹ Currently, EPA discourages exports by creating a fictional RVO against export RINs that must be retired. Eliminating the ERVO would make exporting more attractive to domestic producers by giving them access to additional markets for their products without the burden of retiring the RIN just because they export. Ensuring that RINs can be generated for compliance by *all* renewable fuel produced in the U.S. would provide

⁹⁷ Energy and Policy Act of 2005, Pub. L. 109-58, 119 Stat. at 659.

⁹⁸ See *ACE*, 864 F.3d at 697 (quoting Preamble to Energy Independence and Security Act of 2007, Pub. L. No. 110-140, 121 Stat. at 1492.)

⁹⁹ EIA, *Today In Energy, U.S. exported a record amount of fuel ethanol in 2017* (Apr. 27, 2018), <https://www.eia.gov/todayinenergy/detail.php?id=35972>.

¹⁰⁰ David Korotney, EPA, *Market impacts of biofuels in 2019* (June 26, 2018) (EPA-HQ-OAR-2018-0167-0025).

¹⁰¹ EVA's analysis concluded that "the 'benefit' of the RFS program going forward is effectively limited to pushing the ethanol blend percentage beyond 10% in an attempt to incentivize demand for that fuel. . . . If ethanol can be sold to blenders at a lower price than wholesale gasoline, there is no reason blending would *not* occur up to the 10% blend wall." Consequently, allowing RINs for exports supports additional markets for domestic ethanol produced in excess of 10% of the U.S. motor gasoline pool. See EVA Comments 4, 5.

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opportunities for expanded domestic production, estimated to be as much as an additional 1.2 billion gallons per year (greater than baseline export levels).¹⁰²

In addition, exporting renewable fuels positively impacts the U.S. economy and protects jobs in the biofuels industry, which helps to satisfy the RFS program's goal of job creation. The increased demand for domestic production that would result from eliminating the ERVO would add 26,000 jobs annually, which will contribute to regional and national economic growth.¹⁰³ As many as 1,200 additional temporary jobs could be created over the next three years as a result of specific investments in capacity expansion.¹⁰⁴ This will undoubtedly benefit American corn farmers and rural farming communities in addition to renewable fuel producers.

The proposed change would also enhance our energy and economic security by reinforcing our growing role as an energy superpower. Given that one of the goals of the RFS is to enhance the United States' energy security, it is difficult to imagine that Congress intended the program to replace import of petroleum with imports of renewable fuel, reinforcing the nation's dependence on foreign fuel. Allowing RINs associated with exported renewable fuel to be used for compliance with the RVO would restore the proper balance between renewable fuel imports and exports in the market and support the RFS program's purpose of increased energy independence and security. This change is entirely consistent with President Trump's recommitment to national energy security and special emphasis on U.S. energy exports.¹⁰⁵

C. Eliminating the ERVO Would Ensure Greater Liquidity in the RIN Market

A significant consideration in setting annual RVOs is ensuring a "liquid and well-functioning RIN market upon which success of the entire program depends."¹⁰⁶ In the proposal, EPA explains the gravity of its concern that the RIN bank remain healthy:

An adequate RIN bank serves to make the RIN market liquid. Just as the economy as a whole functions best when individuals and businesses prudently plan for unforeseen events by maintaining inventories and reserve money accounts, we believe that the RFS program functions best when sufficient carryover RINs are held in reserve for potential use by the RIN holders themselves, or for possible sale to others that may not have established their own carryover RIN reserves. Were

¹⁰² See Charles River Associates, *Unobligated RINs for Renewable Fuel Exports* 2. That number represents preventing a loss of 600 million gallons a year based on current policy, and an additional 600 million gallons of production capacity expansion.

¹⁰³ Charles River Associates, *Balancing the Treatment of Ethanol Exports* 3, 10, Attachment M. While assigning unobligated RINs to ethanol exports will contribute to the economy, it does not follow that higher RIN prices increase total economic activity. In fact, the opposite is likely true given the volume of ethanol exports compared to domestic ethanol consumption. RIN costs are mostly borne by US businesses and consumers. Therefore, the proposed regulatory change adds the most value when RINs for ethanol exports do not include expanded RFS obligations. *Id.* at 3.

¹⁰⁴ *Id.* at 11.

¹⁰⁵ President Trump Vows to Usher in Golden Era of American Energy Dominance, <https://www.whitehouse.gov/articles/president-trump-vows-usher-golden-era-american-energy-dominance/> (June 30, 2017).

¹⁰⁶ 83 Fed. Reg. at 32,029.

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there to be no RINs in reserve, then even minor disruptions causing shortfalls in renewable fuel production or distribution, or higher than expected transportation fuel demand (requiring greater volumes of renewable fuel to comply with the percentage standards that apply to all volumes of transportation fuel, including the unexpected volumes) could lead to the need for a new waiver of the standards, undermining the market certainty so critical to the RFS program.¹⁰⁷

Revising the regulatory treatment of exported renewables would help to resolve the RIN liquidity concern in both the short- and long-term. As ethanol exports continue to increase, the RINs from such exports would become part of the RINs market, increasing liquidity and ameliorating the potential for RINs price spikes that occur when renewable blending capacity is constricted.

Economic studies have demonstrated that a significant share of the burden of higher RIN prices fall on merchant and other non-integrated refiners.¹⁰⁸ This is due to blenders capturing margins from RINs. Relief from this burden is possible through providing unobligated RINs for ethanol exports,¹⁰⁹ as the change would make an estimated 1.2 billion RINs available in the market in every compliance year, and it would incentivize domestic renewable production to meet growing demand abroad.

D. Eliminating the ERVO Would Not Undermine Demand at Home for Renewable Fuels or for Corn As A Feedstock

If the export RINs policy were enacted, domestic consumption of ethanol and demand for corn as a feedstock would not be harmed as ethanol volumes increased.

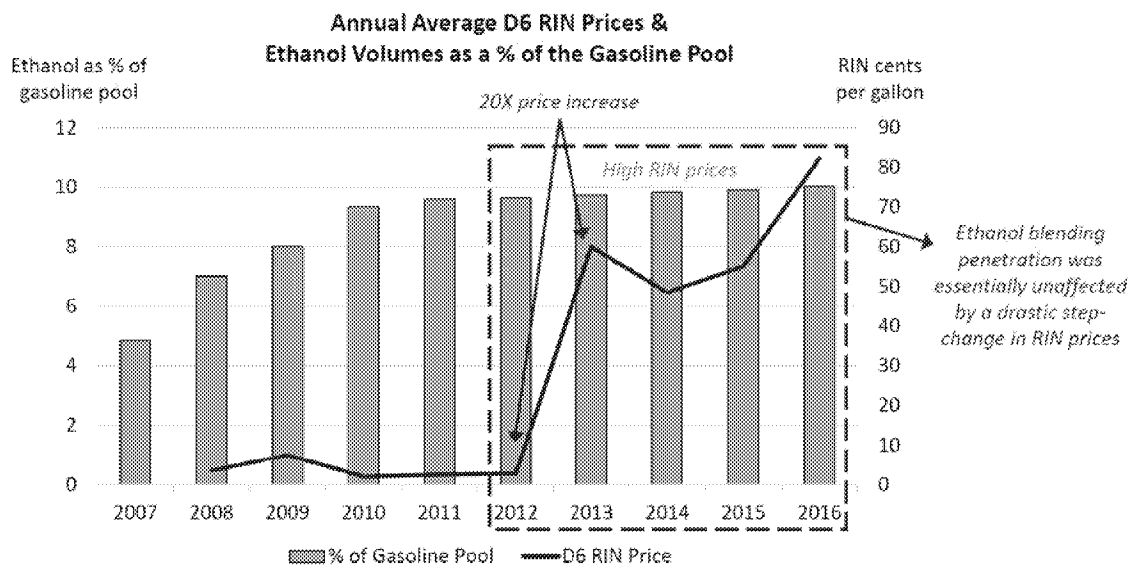
The addition of export RINs to the market are likely to decrease the price of RINs. However, this will not have a negative impact on the domestic consumption of renewables. The following chart (based on RVO and ethanol volumes from EIA and RIN pricing from Argus) shows that high RIN prices do not correlate with increased ethanol blending.

¹⁰⁷ *Id.*

¹⁰⁸ Charles River Associates, *RINs Market Frictions and the RFS Point of Obligation* (2017), Attachment P.

¹⁰⁹ Charles River Associates, *Balancing the Treatment of Ethanol Exports* 3, Attachment M.

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Between 2012 and 2013, RIN prices increased by 20 times. Yet, during the same time, the volume of ethanol in the gasoline pool was nearly unchanged.¹¹⁰ In fact, EIA recently confirmed that lower RIN prices (such as would result from the increasing RINs pool if this proposal were enacted) do not impact domestic ethanol consumption.

This regulatory change would not cannibalize domestic consumption because ethanol is the most economic option for octane enhancement (a dynamic that would be expected to persist if the ERVO were eliminated).¹¹¹ Overall, continued domestic use of ethanol for octane and increased exports would result in a net increase in ethanol demand.¹¹²

E. Eliminating the ERVO is Consistent with International Trade Agreements

Critics of the proposal to allow RINs assigned to exported volumes to be separated and used for compliance argue that the proposal may present problems with the United States' trading partners. Arguments that the change could lead to dumping in foreign markets, create a subsidy that is prohibited by international trade agreements (including those under the auspices of the World Trade Organization ("WTO")), or result in countervailing duties are speculative at best for several reasons.

¹¹⁰ Critics of the proposal to allow RINs for exported volumes argue that it will not cure the blendwall. This is a strawman. The proposed change to the treatment of renewable fuel exports is not intended to cure the blendwall. Rather, it is intended to add liquidity to the RINs market by allowing all biofuel produced in the U.S. to count toward compliance, resulting in reasonable RINs prices and RFS compliance costs that do not subject merchant and, small retailers, and others among the fuel value chain to harm.

¹¹¹ Charles River Associates, *Unobligated RINs for Renewable Fuel Exports* 4, Attachment O.

¹¹² *Id.* at 3.

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First, WTO rules typically do not apply to environmental conservation measures. Article XX of General Agreement on Tariffs and Trade ("GATT") provides

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures ... relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.¹¹³

This exception has been used to except the RFS program in general from WTO restrictions. The proposed regulatory change would be adopted in order to allow that overall program to operate more efficiently and effectively—very likely making it exempt from WTO concerns. In addition, demonstrating a WTO violation would require evidence of harm to foreign biofuels producers which would be difficult. There is no evidence that treating exported ethanol the same as domestically consumed ethanol (including imports) would result in the loss of existing ethanol production capacity in countries that would purchase U.S. ethanol.

Moreover, the current treatment of exported volumes under the RFS may be considered to be a violation of international trade agreements. The proposal to eliminate the ERVO would rectify these concerns. These issues are discussed in brief below, but Valero incorporates into its comments analysis conducted by Sidley Austin LLP.¹¹⁴

1. Modifying the export treatment within the RFS would not constitute a violation of GATT 1994

Modifying the treatment of exported renewable fuels would not violate the WTO's General Agreement on Tariffs and Trade 1994 ("GATT 1994").¹¹⁵ In fact, in modifying the RFS to allow exported renewable fuel volumes to enjoy the same RIN benefit as volumes consumed at home, EPA will be viewed as addressing compliance flaws posed by the current ERVO and will bring the RFS program into compliance with international trade laws.

Article XI:1 of GATT 1994 bars "prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences [*stet*] or other measures" that are "instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party." As Sidley Austin explained,

Today's RFS discriminates against U.S. exports of renewable fuels by not allowing those volumes to receive the same benefits as volumes consumed (blended)

¹¹³ See GATT Art. XX(g) (exempting

¹¹⁴ See Letter from Andrew W. Shoyer, Sidley Austin, to EPA Admin. Scott Pruitt (Oct. 19, 2017) (EPA-HQ-OAR-2017-0091-4716), Attachment Q.

¹¹⁵ *Id.* at 1.

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domestically....Currently, the EPA requires that a person exporting renewable fuel from the United States surrender RINs. On the other hand, if the renewable fuel is sold in the domestic market, the sale does not attract an obligation to surrender RINs. In the domestic market, the obligation to surrender a RIN is at the point that it is blended with hydrocarbon-based fuels. Thus, the existing requirements create an artificial disincentive for exporting renewable fuels, and creates an incentive for selling renewable fuel in the domestic market. This is indeed a distortion of the market through government intervention, and...appears to amount to a violation of Article XI:1 of GATT 1994.¹¹⁶

For purposes of compliance with international trade agreements, the proposed modification would remove an artificially created disincentive against exportation rather than creating an incentive for exportation.¹¹⁷ By eliminating the ERVO, EPA would allow exported renewable fuel volumes to enjoy the same RIN benefit as volumes consumed at home, which would be viewed as rectifying these concerns.¹¹⁸

2. Allowing export RINs to be used for compliance should not result in "dumping"

Allowing export RINs to be used for RFS compliance purposes should not result in dumping, which is prohibited by Article VI of GATT 1994. "Dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products is to be condemned if it causes or threatens material injury to an established industry."¹¹⁹

There is no reasonable argument that allowing the RINs to attach to exports would allow for exports to occur at a price that is artificially lower than the "normal price" for domestic sale of ethanol. The proposed change would not provide any financial benefits to exports of ethanol above and beyond domestic consumption (for which RINs already attach). In addition, the scope of the RFS program as a whole means that the price implications of the proposed change would be negligible. And, to the extent that the international ethanol market is influenced by U.S. policy, that influence is dominated by the overall RFS program, the vast majority of which is unaffected by this proposed change.

As discussed above, the change would support the functioning of the RFS program, which is exempt as an environmental conservation measure, and there is no evidence that the change would harm foreign producers of renewable fuel.

¹¹⁶ *Id.* at 1, 3.

¹¹⁷ *Id.* at 3.

¹¹⁸ *Id.* at 1, 3. Although GATT 1994's general prohibition on restricting trade "is generally viewed as a prohibition to disadvantage imports, the WTO has applied this prohibition to government measures that restrict exports as well." *Id.* at 4.

¹¹⁹ GATT Art. VI:1.

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3. The proposed change does not create a prohibited subsidy or result in countervailing duties

The WTO's Subsidies and Countervailing Measures Agreement ("SCM Agreement") prohibits subsidies contingent on exports and subsidies that cause adverse effects to the interests of other WTO members.¹²⁰ Annex I of the SCM Agreement lists a variety of prohibited subsidies, and the proposed change is not similar to any of the listed subsidies. The proposed change would result in exported ethanol being treated the same as domestically consumed ethanol. It would rectify an existing obstacle to exports, and would not create any scheme to privilege or promote exports above and beyond domestic use. Again, the change would be covered by the exception for environmental conservation measures, and there is no evidence that treating exported ethanol the same as domestically consumed exports would result in the loss of existing ethanol production capacity in countries that would purchase U.S. ethanol. And, it is likely the proposed change would be considered part of the overall program and therefore subject to the general exception for environmental conservation measures in GATT Article XX.

VII. EPA must consider the point of obligation each time it establishes the annual percentage standards

Although EPA may attempt to declare (as it has in the last two annual rulemakings) issues related to who is "appropriately" charged with ensuring that the annual volumes of renewable fuel required by the statute are met are beyond the scope of rulemaking, EPA does not have the option to exclude such comments aimed at informing the agency of its failure to satisfy a required element of this rulemaking. Valero's comments on the point of obligation are not outside the scope of this rulemaking and must be given full consideration by EPA despite the Agency's insistence that it is not "reopening" this issue. The D.C. Circuit in *ACE*¹²¹ did not address this issue because the court had already decided to remand the 2014-2016 RVO rule to EPA. The fact that the court left EPA with only the choice of venue for its consideration of the point of obligation—on remand or in response to a rulemaking petition¹²²—indicates that the court does not consider the point of obligation outside the scope of the RVO.

As presented in the various administrative petitions submitted to the agency and in briefs to the D.C. Circuit, the statute requires that EPA (1) regulate refiners, importers and blenders "as appropriate" to ensure transportation fuels contain renewable fuels and (2) consider the appropriateness of the entities regulated under the RFS every time it sets the RVO. The primary statutory goals of the RFS are "greater energy independence and security and increasing production of clean renewable fuels."¹²³ To meet these goals, the statute assigns EPA certain duties. First, it requires EPA to promulgate regulations that regulate the appropriate parties to

¹²⁰ *SCM Agreement*, Article 3.1, available at https://www.wto.org/english/docs_e/legal_e/24-scm.pdf ("the following subsidies,...shall be prohibited: (a) subsidies contingent...upon export performance; (b) subsidies contingent...upon the use of domestic over imported goods").

¹²¹ 864 F.3d at 737.

¹²² *Id.* at 85.

¹²³ Energy Independence and Security Act of 2007 ("EISA"), Pub. L. No. 110-140, tit. X, § 1001-1002, 121 Stat. 1492 (2007).

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ensure that transportation fuel introduced into commerce contains renewable fuel.¹²⁴ Second, it assigns EPA an annual, mandatory duty to evaluate whether the appropriate parties are regulated:

- Not later than November 30 of each calendar year, EPA “shall determine and publish...the renewable fuel obligation that ensures the requirements of paragraph (2) are met.”¹²⁵
- The renewable fuel obligation shall “be applicable to refineries, blenders, and importers, *as appropriate*.”¹²⁶

It is clear that this is not a one-time requirement, but rather, an annual obligation because EPA cannot fulfill its duty to ensure that the renewable volumes prescribed by the statute for a given year are met without considering whether it has regulated the appropriate parties at that point in time.¹²⁷ It is not sufficient to regulate the parties that were appropriate at one point in time or continue with the parties regulated at one time when a change would improve the performance of the program.

EPA acknowledged the need to reevaluate the appropriateness of the regulation related to “appropriate” parties when the agency committed to reevaluate the point of obligation as circumstances change.¹²⁸ It is equally clear that EPA must fulfill its annual duty to consider the point of obligation within sufficient time to publish a final rule every November.¹²⁹ EPA has not fulfilled its duty with regard to the annual percentage standards for 2019 in this proposal.

Considering the point of obligation each time EPA sets the annual percentage standards serves the statute’s goals of “increasing production of clean renewable fuels” and “greater energy independence and security.” EPA cannot ignore the positive effect that changing the point of obligation would have on consumption of all renewable fuels. Nor can EPA ignore how the current point of obligation promotes fuel exports and supports biofuel imports. Neither can EPA continue to rely on a regulation that amounts to restructuring a segment of the U.S. economy on the basis of administrative convenience or because some economic sectors are profiting from the regulatory structure in a way that does not serve the statutory purposes. When EPA “lay[s] claim to extravagant statutory power over the national economy while at the same time strenuously

¹²⁴ 42 U.S.C. § 7545(o)(2)(A)(iii).

¹²⁵ *Id.* § 7545(o)(3)(B)(i).

¹²⁶ *Id.* § 7545(o)(3)(B)(ii)(I).

¹²⁷ In disclaiming this duty, EPA has in other contexts attempted to rely on *Valero Energy Corp. v. EPA*, No. 7:17-CV-00004, 2017 WL 8780888 (N.D. Tex. Nov. 28, 2017), but the district court in that case did not address EPA’s annual rulemakings or whether EPA must consider comments regarding the point of obligation in that context. That court’s analysis was also flawed. It conflated the general requirement in § 7545(o)(2)(A)(iii) to promulgate “compliance provisions” with the specific requirements applicable to annual determinations in § 7545(o)(3)(B). It failed to explain what purpose the annual requirement would serve if it were met merely by the compliance provision. And it treated the first “required element” of EPA’s annual determination differently from the other two. 2017 WL 8780888, at *4-*6.

¹²⁸ 75 Fed. Reg. 14,670, 14,722 (Mar. 26, 2010) (“We will continue to evaluate the functionality of the RIN market. Should we determine that the RIN market is not operating as intended, driving up prices for obligated parties and fuel prices for consumers, we will consider revisiting this provision in future regulatory efforts.”).

¹²⁹ 42 U.S.C. § 7545(o)(3)(B)(i); 40 C.F.R. § 80.1405(b).

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asserting that the authority claimed would render the statute unrecognizable to the Congress that designed it," such an announcement should be greeted with skepticism.¹³⁰

Moreover, EPA itself has recognized a "guiding principle" of the RFS is that "the program should preserve existing business practices for the production, distribution, and use of both conventional and renewable fuels."¹³¹ In failing to consider the point of obligation, EPA has flouted this principle, preferring instead to try to force merchant refiners to change their business practices in order to add blending facilities and to risk further consolidation in the fuel industry rather than fix the underlying flaws in the structure of the RFS.

In the context of EPA's proposed denial of their administrative petitions regarding the definition of "obligated parties" and in the context of other annual rulemakings, Valero and many other parties have explained the numerous, significant benefits that would result from EPA defining "obligated party" consistent with the federal excise tax definition of "position holder." These benefits include (but are not limited to) reducing (1) administrative burden on EPA; (2) harm to obligated parties that must purchase RINs on the market to satisfy their annual RVOs; (3) market frictions that undermine the program's ability to increase renewable fuel penetration; (4) volatility in the RIN market; (5) unfair competition experienced by small retailers; and (6) opportunities for speculation and fraud in the RINs market.¹³² These benefits would still be achieved today if EPA were to properly align the point of obligation with position holders.

IX. RIN Market

While we commend the EPA for opening the dialogue on market reforms, Valero nevertheless believes that RFS implementation reforms of the sort discussed elsewhere in these comments (including counting RINs generated by exports and shifting the point of obligation) are necessary prerequisites to resolving the structural causes of manipulation and speculation.¹³³ Valero is also very concerned that EPA has already delayed taking action to reduce the harms arising from the RIN market problems. Valero urges EPA to advance its multi-year discussion of RIN market concerns by issuing concrete rule proposals designed to protect the integrity and orderly, efficient functioning of the market. EPA has received comments, information and

¹³⁰ *Util. Air Regulatory Grp. v. EPA*, 134 S. Ct. 2427, 2444 (2014) (internal citations omitted).

¹³¹ 71 Fed. Reg. 55,552, 55,557 (Sept. 22, 2006).

¹³² See, e.g., Valero Comments on Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation (Feb. 22, 2017) (EPA-HQ-OAR-2016-0544-0274), Attachment R; PBF Energy Comments on Proposed Denial (Feb. 22, 2017) (EPA-HQ-OAR-2016-0544-0373); Small Retailers Coalition Comments on Proposed Denial (Feb. 22, 2017) (EPA-HQ-OAR-2016-0544-0344); Small Refiners Coalition Comments on Proposed Denial (Feb. 22, 2017) (EPA-HQ-OAR-2016-0544-0406); Monroe Energy Comments on Proposed Denial (Feb. 22, 2017) (EPA-HQ-OAR-2016-0544-0368); Valero Comments on Proposed 2017 RVO (July 11, 2016) (EPA-HQ-OAR-2016-0004-1746), Attachment S; Valero Comments on Proposed 2018 RVO, Attachment C.

¹³³ Some have argued that the RFS credit trading program is not consistent with the statute. However, the appropriate placement of the point of obligation, by obligating blenders as well as refiners and importers, would alleviate the harm caused by alleged statutory violation.

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recommendations regarding this issue in prior rulemakings; EPA should consider those comments as well as ones submitting in this docket and not delay in taking action.¹³⁴

The RIN market is susceptible to manipulation and other market abuses, such as hoarding, which contribute to volatility, price spikes, and uncertainty that increase costs and threaten economic stability for RFS program participants. By taking steps to improve transparency, liquidity, and implementing certain basic market protections, the EPA can ensure that the market is not susceptible to excessive speculation or abusive market practices.

A. The Similarity of the RIN Market and Commodity Markets

RIN trading is very similar to trading in commodities and commodity derivative financial instruments like futures. There is a finite deliverable supply of both commodities and RINs, and temporal differences in supply and demand can lead to episodic volatility and price spikes. As with commodity futures contracts, RINs have a specific expiration date. Just as the seller of a commodity futures contract has an obligation to deliver at a future contract expiry date, most RINs are traded on a forward basis with a title transfer date tailored to meet periodic RVO compliance dates. RIN two-year expiration cycles and periodic compliance retirements resemble both literal expiration cycles for agricultural commodities and contractual tenor expiration cycles for commodity futures contracts.

The RIN market is a largely unregulated over-the-counter¹³⁵ commodity derivatives market subject to market frictions and opacity in trading, an inelastic demand curve, as well as illiquidity, scarcity, and volatility. As regulators have long observed in similar markets in the commodities space, these factors can create obstacles to efficient price discovery and can create incentives to undermine market integrity by engaging in manipulative behaviors. Due to the practical similarities between RIN markets and commodity derivative and spot markets, a number of the proposed reforms discussed below are modeled after existing regulations designed to protect market participants, promote market integrity, and foster efficient price discovery that have been implemented by federal agencies, such as the Commodity Futures Trading Commission ("CFTC"), which have many decades of experience in regulating markets.¹³⁶ Valero addresses below topics

¹³⁴ Valero has submitted comments and recommendations in EPA RFS rulemaking dockets aimed at improving RIN market transparency and reducing market manipulation on previous occasions. Concerns raised by Valero in these submissions remain valid, in that no market reforms have been adopted to address the concerns and the issues persist. In June 2016, Valero indicated that potential RIN speculation and fraud might undermine the RFS program, including with reference to experts who described the failure of the RIN system to function as intended. *See* Valero Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party – 40 C.F.R. § 80.1406 at 24 (June 13, 2016), Attachment T. In February 2017, Valero described harms under the current RFS arising from RIN fraud, RIN speculation, and volatility and the impacts on small and independent refiners and small retailers and the harm to the program, renewable producers, and ultimately consumers. *See* Valero Comments on Proposed Denial 9, 15, 26, Attachment R. In August 2017, Valero identified potential market manipulation occurring in the RIN market and other RIN market operational problems, explained why the RIN market is vulnerable to manipulation, and recommended a number of fundamental changes and other measures that EPA should implement to resolve the problems with the RIN market. *See* Valero Comments 2018 Proposed RVO 14-18, Attachment C.

¹³⁵ Over-the counter refers to commodities, stocks, etc. that are traded off an exchange.

¹³⁶ Valero supports EPA's ongoing dialogue with the CFTC to develop techniques that could be employed to minimize fraud, market abuses or other violations, and to conduct appropriate oversight of the RIN market. *See* "Memorandum of Understanding Between the Environmental Protection Agency and the Commodity Futures Trading Commission

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raised by EPA in its comment solicitation to help EPA better understand the illiquidity, instability, price discovery problems, potential manipulation, and lack of transparency in the RIN market.

B. Illiquidity

1. The RIN market is often illiquid

RIN markets are often very illiquid. This is due in part to the finite production of RINs over time, which limits the possibility of a substantial oversupply and creates a high floor for demand. There also is the potential for hoarding behavior by some market participants.

As a result of the mismatch between the RFS point of obligation and RIN production, there are not enough RINs available in the market to satisfy RVOs at any given time. Only RINs available in the market contribute to liquidity; warehoused RINs do not contribute to short- or medium-term supply curves relevant for the next RVO.

2. Illiquidity undermines price discovery and market stability

It is widely accepted in the financial economics literature that liquidity enhances price discovery—*i.e.*, the incorporation of new information into asset pricing. In an illiquid market, bid-ask spreads tend to be wider, raising the transaction costs to an informed trader and creating a friction against the placement and execution of informed orders. Moreover, in illiquid markets, it can be difficult for an informed trader to place and execute large orders without substantially affecting market prices, reducing the potential reward for informed trading. Illiquidity can thus undermine price discovery.

Illiquidity also undermines market stability. Markets with relatively few and/or relatively small providers of liquidity at any given point in time tend to be more subject to extreme price movements in the event of large order placements. Large orders, particularly those of commercial market participants, may contain information about their supply and demand, which can affect prices. Price changes should relate to supply and demand. But if those orders are purely speculative and therefore not reflective of true supply and demand, other traders can misinterpret those orders as informed trades, and price spikes can occur and thereby impact price discovery. Further, economic experience demonstrates that illiquid markets often have characteristically high volatility, which not only undermines price discovery but also creates uncertainty for market participants regarding the true economic value of the asset in question.

3. Recommendations to enhance RIN market liquidity and prevent excessive speculation

Valero recommends that EPA implement reforms to increase market liquidity and discourage excessive warehousing or hoarding of RINs. These reforms could be pursued

on the Sharing of Information Available to EPA Related to the Functioning of Renewable Fuel and Related Markets” (Mar. 15, 2016), available at <https://www.epa.gov/sites/production/files/2016-03/documents/epa-cftc-mou-2016-03-16.pdf>.

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independently or in tandem. These reforms would require additional position and/or transaction data reporting to regulators, discussed in detail below.

First, Valero recommends that EPA implement position limits. Position limits are an important tool used by market regulators, such as the CFTC, to prevent excessive speculation and the potential for manipulation while ensuring sufficient market liquidity for bona fide market participants and protecting the price discovery process.¹³⁷ Speculative position limits have been used as a tool to regulate futures markets for over seventy years and Congress has repeatedly expressed confidence in the use of speculative position limits as an effective means of preventing unreasonable and unwarranted price fluctuations that undermine market stability.¹³⁸

EPA requested comment on whether it should change the duration for which RINs could be held and require obligated parties to retire RINs for compliance on a more frequent basis. Valero believes that EPA can discourage hoarding and encourage liquidity by implementing position limits subject to a durational component.

In addition to position limits, Valero recommends that EPA establish carryover limits relative to a RIN holder's compliance obligations and that such proportional limits be tightened to reduce the excess RINs a firm is permitted to carry over and bank for the following compliance period. The limits would include carryover allowances such that market participants with RVO obligations would qualify for exemptions enabling them to carry over a greater number of RINs as a function of the entity's requirements to hedge future RVO obligations. Limits could be structured to discourage hoarding by net RIN-long parties and encourage unobligated net RIN-long parties to make more RINs available to the market, thereby increasing liquidity.¹³⁹ The limits also should become more restrictive as RINs approach expiration, analogous to telescoping position limits commonly applied to commodities markets, with RVOs operating as hedge exemptions.

Valero also recommends that EPA create a central RIN repository and auction process for excess carryover RINs. In a tight market with a limited supply of RINs, some net long market participants could be motivated to allow RINs to expire rather than to sell them in order to restrict available market supply and drive up the price of their remaining positions. In order to eliminate such behavior, RINs that would otherwise exceed carryover limits would be transferred to a central RIN repository where they could then be made available for purchase via a public auction.

¹³⁷ For information on the CFTC's position limit framework, see CFTC, Speculative Limits, <https://www.cftc.gov/IndustryOversight/MarketSurveillance/SpeculativeLimits/index.htm> (last visited Aug. 15, 2018).

¹³⁸ See 78 Fed. Reg. 75,680, 75,681 (Dec. 12, 2013). See also H.R. Rep. No. 421, 74th Cong., 1st Sess. 1 (1935); H.R. Rep. No. 624, 99th Cong., 2d Sess. 44 (1986). The Commodity Exchange Act ("CEA") provides criteria for the CFTC to address with respect to position limits: (i) to diminish, eliminate, or prevent excessive speculation as described under this section; (ii) to deter and prevent market manipulation, squeezes, and corners; (iii) to ensure sufficient market liquidity for bona fide hedgers; and (iv) to ensure that the price discovery function of the underlying market is not disrupted. See 7 U.S.C. § 6a(a)(3)(B).

¹³⁹ See 83 Fed. Reg. 32,024, 32,029 (July 10, 2018).

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**C. The RIN Market Is Susceptible to Manipulation, Which Undermines Price
Discovery and Market Integrity**

1. The RIN market is susceptible to manipulation

The RIN market is virtually unregulated. Due to the structure of the RFS, obligated parties—particularly RIN-short parties—are a captive market for RINs. They must purchase a government mandated and publicly known quantity of RINs every year regardless of the price. Thus, RIN-short obligated parties are captive buyers while sellers can dictate trade terms. This dynamic, which results in an inelastic demand curve, combined with a lack of regulation, no restrictions on who can participate in the market, and no limits on the size of positions a participant can accumulate, provides for a market highly susceptible to abuse by participants engaged in manipulative and disruptive trading behavior.

The susceptibility of RIN markets to manipulation can be analyzed through the frameworks used to analyze commodity and commodity derivative markets. The finite supply of RINs, in conjunction with the inelastic demand curve for RINs created by defined RVOs and a single, universally known compliance schedule, creates opportunities for RIN-long parties in RIN markets—akin to the suppliers in a commodity market—to “squeeze” those with a net short position into paying higher prices, especially as RVO deadlines loom.¹⁴⁰ Also analogous to commodity markets, traders with larger positions are proportionately more capable of effectuating squeezes by withholding a greater portion of the total RIN supply from the market and keeping them warehoused. Such withholding and warehousing directly reduces liquidity in RIN markets, and can lead to increased volatility.¹⁴¹ Unlike most commodity markets, the RFS program does not currently restrict or prohibit large positions, meaning RIN squeezes can be even more effective than commodity market squeezes, with a lower risk of detection and punishment.

Moreover, in addition to an inelastic demand curve that is the result of the RVO for obligated parties, Charles River Associates has found that supply for RINs is “relatively inelastic.”¹⁴² This allows net long RIN market participants to withhold and warehouse larger positions with less concern that another party will increase RIN supply and devalue their long position.

¹⁴⁰ See Frank H. Easterbrook, *Monopoly, Manipulation, and the Regulation of Futures Markets* at S106, 59 Journal of Business, Issue 2 (Apr. 1986) (“The party may acquire a large portion of the existing contracts, thus under-cutting the usual assumption that every trader is ‘small’ in relation to the market. Or the party may simply decline to liquidate his position, so that at the very close of trading a formerly small holding becomes large in relation to the open contracts. The holder of these contracts then demands or tenders delivery (depending on whether he is long or short). Holders of opposite positions, surprised by the sudden demand or tender, unable either to make or take delivery without incurring large costs, and unable to find other parties with whom to close out their positions, must pay a premium to negotiate around the demand.”).

¹⁴¹ See Allen et al., *Large Investors, Price Manipulation, and Limits to Arbitrage: An Anatomy of Market Corners* at 647, Review of Finance (2006) (“We show that market corners tend to increase market volatility and have an adverse price impact on other assets.”)

¹⁴² See Charles River Associates, *RINs Market Frictions and the RFS Point of Obligation* 3 (“[T]he relatively inelastic supply of RINs due to the characteristics of the RFS program and supply conditions past the “blendwall” tends to make manipulation issues more serious.”), Attachment P.

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2. *The hoarding problem*

The prevalent market abuse existing in the RIN market today is hoarding—the intentional withholding of RIN supplies from obligated parties to create short squeezes and force obligated parties to purchase RINs at higher prices. Hoarding has been a significant concern to Valero and other market participants since the development of the RFS program and remains a real and costly issue today. Hoarding continues to have an increasingly significant impact on Valero's business—Valero attributes a portion of its increasing RIN expenditures, which have more than doubled since 2015 and almost quadrupled since 2014, to artificially high RIN prices supported by hoarding behavior.¹⁴³

Hoarding imposes large costs on all RIN-short parties in the RIN market. A Columbia University study listed high and volatile RIN prices as a failure of the program: “RIN prices under the RFS have been both high and volatile. Since February 2013, the price of the D6 RIN...has fluctuated from less than \$0.20 per gallon to more than \$1.40 per gallon.”¹⁴⁴ One of the listed sources for such price inflation and volatility stated: “Because RINs are bankable, expectations of future changes in the conventional [price] gap induce changes in current RIN prices. Thus, RIN prices are sensitive to rumors and market guesses about shifts in future RFS policy.”¹⁴⁵

Another concern is that financial speculators—parties with no RVOs—can buy RINs and engage in hoarding to reduce liquidity and benefit from illiquidity-induced volatility, selling RINs only at peak price spikes. RIN hoarding has an adverse effect on market liquidity, market stability, price discovery, and, ultimately, market integrity, creating great uncertainty for obligated parties. Hoarding reduces RIN supplies from the marketplace, thereby reducing liquidity. Less liquidity, in turn, increases volatility, which makes the RIN market more susceptible to other types of manipulative conduct and interferes with efficient price discovery.

3. *Recommendations to discourage hoarding*

Valero recommends that EPA establish rolling compliance dates and/or shorten the shelf life of a RIN to prevent short squeezes. By allowing for more flexibility regarding compliance dates and/or shortening the shelf life of a RIN, short squeezes could be made less profitable and liquidity could be more evenly spread throughout the year, particularly if pursued in tandem with position limits and/or a central RIN repository and periodic auctions.

Valero also recommends that EPA continue to work with other federal agencies and other regulators responsible for overseeing established trading markets to adopt clear anti-manipulation requirements that explicitly identify and prohibit hoarding and other abusive market practices occurring in the RIN market (e.g., spoofing, violations of bids or offers, and artificial price floors).¹⁴⁶ The CFTC has a long history of administering rules, such as position limits, and

¹⁴³ See Seeking Alpha, *Valero Almost Broke The \$1B Threshold On RINs in 2017*, <https://seekingalpha.com/article/4155058-valero-almost-broke-1b-threshold-rins-2017> (Mar. 9, 2018).

¹⁴⁴ See James Stock, Columbia University, *Reforming the Renewable Fuel Standard* (Feb. 2018), Attachment U.

¹⁴⁵ *Id.*

¹⁴⁶ Spoofing occurs when traders place bids or offers with the intent to cancel their quotes before execution, in order to attract other traders to the market and induce a particular market price; violations of bids or offers occur when

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enforcing those rules to prevent market manipulation and attempts to corner or hoard the market. For example:

- The CFTC stated in the final rule released on Position Limits for Futures and Swaps that the “long-standing statutory mandate [to limit trading] is based on Congressional findings that market disruptions can result from excessive speculative trading. In the 1920s and into the 1930s, a series of studies and reports found that large speculative positions in the futures markets for grain, even without manipulative intent, can cause ‘disturbances’ and ‘wild and erratic’ price fluctuations. To address such market disturbances, Congress was urged to adopt position limits to restrict speculative trading notwithstanding the absence of manipulation. In 1936, based upon such reports and testimony, Congress provided the Commodity Exchange Authority (the predecessor of the Commission) with the authority to impose Federal speculative position limits.”¹⁴⁷
- The CFTC stated in its prior proposal that “Large concentrated positions in the physical commodity markets can potentially facilitate price distortions given that the capacity of any market to absorb the establishment and liquidation of large positions in an orderly manner is related to the size of such positions relative to the market and the market’s structure and is, therefore, not unlimited.”¹⁴⁸
- In its Cost-Benefit Analysis of the proposed post Dodd-Frank Position Limits for Derivatives, the CFTC concluded that in addition to volatility reduction benefits of position limits, “visibility levels and associated reporting requirements of proposed [position limit rules] would enable the Commission to better understand generally the portfolio compositions, including *bona fide* hedging needs, of the largest position holders of referenced contracts. This data would enable the Commission to determine whether to readjust the speculative position limits to continue to ensure the statutory objectives are met. Visibility reports would allow the Commission to have a better sense of the relative distribution of speculative versus non-speculative positions and activity, as well as the nature and effect of the largest speculative traders in referenced contracts.”¹⁴⁹

traders buy at a price higher than the lowest available offer price and/or sell at a price that is lower than the highest available bid price; and artificial price floors are the result of RIN-long dominant parties sending blanket offers to purchase RINs to all known large sellers below a certain target price. See Valero Comments on Proposed 2017 RVO 15, Attachment S; see also 7 U.S.C. § 6c(a)(5)(A). The Dodd-Frank Act amended the CEA to prohibit “spoofing,” making it “unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that is of the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).” See 7 U.S.C. § 6c(a)(5)(C).

¹⁴⁷ 76 Fed. Reg. 71,626, 76,127 n.10 (Nov. 18, 2011).

¹⁴⁸ 76 Fed. Reg. 4,752, 4,755 (Jan. 26, 2011).

¹⁴⁹ *Id.* at 4,764.

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EPA should provide legislative recommendations to Congress if it determines that additional oversight authority is needed to implement appropriate market reforms, such as those currently utilized by the CFTC to protect market integrity.

Valero's recommendations to increase market liquidity noted above, *e.g.*, position limits, carryover limits, and a central RIN repository and auction process for excess carryover RINs, have the added benefit of reducing incentives to manipulate the RIN market. Consequently, Valero repeats its recommendation that EPA implement these requirements to discourage RIN hoarding and increase market liquidity, from the additional perspective of enhancing market integrity.

D. Transparency

1. Transparency in the RIN market

Manipulation and transparency are obviously related, in that a lack of transparency opens the door to fraud and other misconduct. Valero agrees with the statement of one former CFTC Commissioner that "[t]ransparency is the cornerstone of a well functioning regulatory system,"¹⁵⁰ and strongly believes that improving transparency in the RIN market will help EPA identify and eliminate manipulative behavior, which in turn will benefit RFS program participants and protect the program's integrity. Notwithstanding the above, transparency improvements alone will not fix the RIN market; they will only be effective if they are accompanied by reforms implementing position limits, carry-over limits (with exemptions), and enhancing liquidity of the RIN pool.

Unlike the commodities and securities markets, the RIN market is not transparent—prices are not disclosed and there is no obligation to accurately report prices. Because there is no requirement for accurately reporting RIN trading information, information is spread thin and across many brokers contributing to chaotic trading with no natural order to trade flow. There is also no centralized validation of RIN volumes or RIN prices and no trader accountability.

Although RIN market participants are required to enter certain transaction information in the EPA Moderated Transaction System ("EMTS") within prescribed time frames, the current EMTS reporting regime does not inform regulators about net positions and forward contracts in real time, and instead reports prices at the time of deliveries.¹⁵¹ Since the RIN market is primarily a forward market, regulators cannot engage in effective market surveillance in the ways that other agencies are able to do so.

¹⁵⁰ See "Integrity of the Futures Markets and the Role of Transparency," Remarks by CFTC Commissioner Jill E. Sommers Before the FIA Asia Derivatives Conference Tokyo, Japan (Sep. 19, 2008), *available at* <https://www.cftc.gov/PressRoom/SpeechesTestimony/opasommers-5>.

¹⁵¹ According to an expert report, "the EMTS is inadequate for tracking the price of RINs because it collects price data on either a per-RIN or per-gallon basis. In addition, recording such data is subject to human error, so it is nearly impossible to identify and assess the cause of RIN volatility where the recorder incorrectly enters the data. Furthermore, several of the data fields in EMTS are voluntary; therefore, this information is often incomplete or in many cases misleading because there is no regulatory requirement to collect or analyze that data." Ramon Benavides, Global Renewable Strategies and Consulting, LLC, *The US Renewable Identification Number: RINs Trading Market* 5 (2017), Attachment V.

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Moreover, regulators are unable to monitor the RIN markets in real time to ensure that the markets function in an efficient manner, *i.e.*, one in which there are a sufficient number of reasonably available RINs for obligated parties seeking to purchase them.¹⁵² Thus, if a market participant intentionally withholds supplies to squeeze RIN short parties, regulators would not have the means to anticipate the temporary shortage or assess whether a squeeze is occurring.

2. *Transparency reforms*

EPA requested comment on a number of transparency reforms for the RIN market, including whether EPA should consider increasing the frequency at which currently available information is posted; post regular updates to the number of RINs it anticipates will be required for compliance; post average RIN prices based on the price information submitted to EPA through EMTS; and require public disclosure if a party holds a certain percentage of the RIN market. EPA also sought comment on whether it would be helpful to have access to aggregated information related to the number of RINs held by different categories of entities, such as renewable fuel producers, obligated parties, and parties that neither produce renewable fuel nor have an RVO under the RFS program.

In considering how to improve RIN market transparency, it remains important for EPA to obtain basic transaction information through EMTS that will enable it to conduct effective surveillance across the RIN market and detect, analyze, and sanction manipulative behavior. According to recent press reports, RIN data was not adequate for the CFTC to examine the market for the presence of manipulation. The proposals below include components of the CFTC's transparency framework to improve the adequacy of data collected by EPA.¹⁵³

EPA should consider reforming EMTS reporting requirements to capture more transaction data (including forward transactions) and net position data prerequisite to effective market surveillance. For example, EPA can require parties to report RIN transactions to EMTS within a short period of time after market participants agree to the transaction (*e.g.*, same day, t+1, or t+2), rather than upon delivery. Public posting of anonymized aggregates of reported data also should be considered to increase market transparency to the public and reduce information asymmetry across market participants.

One of the more important tools used by the CFTC to surveil markets is its large trader reporting program, pursuant to which it collects daily market data and position information from exchanges, clearing members, futures commission merchants, foreign brokers, and traders.¹⁵⁴ The large trader reporting program works as follows:

¹⁵² 83 Fed. Reg. at 32,029.

¹⁵³ Chris Clayton, *EPA RIN Market Data Poor* (Feb. 15, 2018), <https://www.dtnpf.com/agriculture/web/ag/news/business-inputs/article/2018/02/15/cftc-draw-conclusion-rin-market-epa-2>.

¹⁵⁴ See CFTC, Large Trader Reporting Program, <https://www.cftc.gov/IndustryOversight/MarketSurveillance/LargeTraderReportingProgram/index.htm> (last visited Aug. 15, 2018). To ensure privacy of the information they provide, the CFTC assigns confidential reporting numbers to reporting firms and traders.

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- “Under the Commission’s LTRS, clearing members, FCMs, and foreign brokers (collectively called reporting firms) file daily reports with the Commission under Part 17 of the CFTC’s regulations. The reports show futures and option positions of traders with positions at or above specific reporting levels as set by the Commission....If, at the daily market close, a reporting firm has a trader with a position at or above the Commission’s reporting level in any single futures or option expiration month, the firm reports that trader’s entire position in all futures and options expiration months in that commodity, regardless of size.”¹⁵⁵
- The CFTC collects data directly from exchanges, but such data have limitations which are addressed by the Large Trader Reporting System: “Each day, exchanges report each clearing member’s open long and short positions, purchases and sales, exchanges of futures for cash, and futures delivery notices for the previous trading day. This data is reported separately by proprietary and customer accounts by futures month, and for options by puts and calls, expiration date and strike price....Clearing member data, however, do not directly identify the beneficial owners of positions. The aggregate customer position reported for a clearing member could represent either a single trader or numerous traders. Also, the data would not reveal a circumstance where a single trader controls substantial portions of the customer positions with more than one clearing member, and therefore, could control a substantial portion of the market. To address such a limitation on clearing member data, the Commission’s market surveillance program uses large trader data.”¹⁵⁶
- “The aggregate of all large trader positions reported to the Commission usually represents 70 to 90 percent of the total open interest in any given market. The reporting level for large trader reports can range from 25 contracts to over 1,000 contracts. The level for any given market is based on the total open positions in that market, the size of positions held by traders in the market, and the size of deliverable supplies for physical delivery markets.”¹⁵⁷
- “The Commission has the discretion to raise or lower the reporting levels in specific markets to strike a balance between collecting sufficient information to oversee the markets and minimizing the reporting burden on traders that are reportable.”¹⁵⁸

These reports enable the CFTC to view activities of large traders to determine when their positions pose a threat by exceeding position limits or accountability levels. EPA should consider

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

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implementing similar reporting by large and active RIN traders, to provide EPA with information needed to prevent or at least detect manipulation or short squeezes.

EPA also should consider public reporting of anonymized net position data to help market participants and the public understand market dynamics similar to the CFTC's Commitments of Trader Reports.¹⁵⁹ Such public data could come in two forms. This could involve reporting periodic aggregate positions for the general categories of renewable fuel producers, obligated parties, and parties that neither produce renewable fuel nor have an RVO under the RFS program, but should also include positions of large traders, speculative positions, and those with high volumes of transactions, again with an eye toward allowing regulators the information needed to prevent manipulation or short squeezes. Since some large traders are reporting as obligated parties because they import small amounts of fuel, in developing rules to report by categories, EPA should carefully design the rules to appropriately classify traders who are genuinely obligated parties separate from those that are chosen to be obligated merely to be able to trade and report as obligated parties.

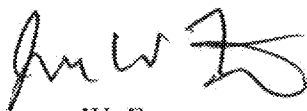
EPA also should consider more frequent public posting of data that is already made available on EMTS (*e.g.*, in real-time to the extent possible) and public posting of periodic stock and flow data relating to aggregate RIN obligations to ensure that market participants have appropriate data to forecast RIN demand and information regarding when RINs are retired. Each market participant can estimate its own RIN obligations, but may not have a strong sense for market-wide RIN obligation changes that should define the demand curve. Similarly, regulators may not be aware of short-term RIN obligation developments. Because of this, EPA should consider requiring market participants to report their estimated RIN obligations to the EPA periodically, such as monthly or quarterly.

¹⁵⁹ See CFTC, Commitment of Traders, <https://www.cftc.gov/MarketReports/CommitmentsofTraders/index.htm> (last visited Aug. 15, 2018). These reports provide a breakdown of each Tuesday's open interest for futures and options on futures markets in which 20 or more traders hold positions equal to or above the reporting levels established by the CFTC.

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Valero is committed to working with EPA in a constructive way that will further the goals of the RFS program. I am available at your convenience to discuss the issues raised in these comments and the recommendations. Please contact me at (210) 345-2000 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'JW Fraser', with a stylized flourish at the end.

Jason W. Fraser,
Senior Vice President & Counsel,
Public Policy, Strategy & External Communications
Valero Energy Corporation

Message

From: Shoaff, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC16FB09CF2C44ADB34A7405DC331532-JSHOAFF]
Sent: 8/24/2018 4:45:24 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]
CC: Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Lubetsky, Jonathan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e125d09a658e48119789ccae5712b4a5-JLUBETSK]
Subject: QFRs for review/refinements circa Monday
Attachments: 2018.08.24b - OAR Wheeler QFRs 08.01.2018.docx

Bill et al,

Per mention at Roundtable this AM, please find attached the latest proposed responses to the QFRs from the SEPW Wheeler Hearing. Aiming to turn these around Monday if at all possible noting that OCIR wanted as soon as today. Thanks!

John

JOHN SHOAFF | DIRECTOR
 OFFICE OF AIR POLICY & PROGRAM SUPPORT (OAPPS)
 OFFICE OF AIR & RADIATION | U.S. EPA | WJC NORTH 5442-B
 1200 PENNSYLVANIA AVE. NW | MC 6103A | WASHINGTON, D.C. | 20460 | USA
Shoaff.john@epa.gov | 1-202-564-0531 DIRECT | 1-202-257-1755 MOBILE

Message

From: Palich, Christian [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=330AD62E158D43AF93FCBBECE930D21A-PALICH, CHR]
Sent: 8/22/2018 8:22:31 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: FW: Wicker memo
Attachments: Admin Wheeler Call w Sen Wicker.docx; ATT00001.htm

Christian R. Palich
Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: 202.306.4656
E: Palich.Christian@epa.gov

From: Frye, Tony (Robert)
Sent: Wednesday, August 22, 2018 2:53 PM
To: Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>
Subject: Fwd: Wicker memo

Hey Aaron— Attached is an updated memo for the call with Sen Wicker.
Thank you,

Tony

Begin forwarded message:

From: "Frye, Tony (Robert)" <frye.robert@epa.gov>
Date: August 22, 2018 at 2:27:21 PM EDT
To: "Lyons, Troy" <lyons.troy@epa.gov>
Cc: "Palich, Christian" <palich.christian@epa.gov>
Subject: Wicker memo

Update attached

Tony Frye
Special Advisor
Office of Congressional & Intergovernmental Affairs
Environmental Protection Agency
Cell: 202.603.3225

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 8/16/2018 11:56:14 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]
CC: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
Subject: Briefing materials for tomorrow
Attachments: Agenda for Fuels Weekly with OAR 08-17-18.docx; Boats and RPC RTR Option Selection 08_17_18.docx; Considering RIN Reallocation in the 2019 FRM.docx; PM ISA followup 08_17_18.docx

Attached are materials for the OTAQ fuels weekly; the PM ISA meeting; and the option selection for boat manufacturing and reinforced plastic composites manufacturing. Hard copies to follow in the morning.

Josh

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 8/14/2018 9:21:20 PM
To: Dickerson, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d0440d9f06994021827e0d0119126799-Dickerson,]
CC: Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: RE: For the 11 am meeting Wednesday with the Auto Alliance
Attachments: Valero_August 15 2018.docx

Aaron – see attached for Valero

From: Dickerson, Aaron
Sent: Tuesday, August 14, 2018 5:20 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Woods, Clint <woods.clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: RE: For the 11 am meeting Wednesday with the Auto Alliance

Thanks Josh.

Anything for the 3pm with Valero?

From: Lewis, Josh
Sent: Tuesday, August 14, 2018 4:35 PM
To: Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Woods, Clint <woods.clint@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: For the 11 am meeting Wednesday with the Auto Alliance

Aaron,

Attached for the 11 am meeting Wed:

- August 2, 2018 Letters from the Auto Alliance & Global Automakers to President Trump and separately Governor Brown on the LD CAFE/GHG proposal
- Joint press release from the Alliance and Global Automakers (also from August 2)
- Overview fact sheet from the recent NHTSA/EPA SAFE Vehicle Rule proposal

Message

From: Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]
Sent: 12/13/2018 1:33:28 AM
To: Mroz, Jessica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=64b0c7f807df436a9b40ce52f7dec34c-Mroz, Jessi]
CC: Lubetsky, Jonathan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e125d09a658e48119789ccae5712b4a5-JLUBETSK]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]; Shoaff, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac16fb09cf2c44adb34a7405dc331532-JShoaff]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Hockstad, Leif [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a4fb1f8930645efa34fdfa7485bc6da-LHOCKSTA]
Subject: Re: Draft Administrator Nomination One-Pagers for OAR IO Review

Thanks so much for the quick turnaround! We'll try to get comments back late Thursday or very early Friday.

On Dec 12, 2018, at 7:12 PM, Mroz, Jessica <mroz.jessica@epa.gov> wrote:

Good Evening,

We are still waiting on one of our one-pagers on Ethelene Oxide because OAQPS is checking with ORD. I've attached everything else that was outstanding yesterday to this email.

As Jonathan said, OCIR asked for these materials by **COB Friday, December 14th**. Please send any edits/comments to Jonathan, John Shoaff and me by **noon on Friday December 14th**.

Best,
 Jessie

Jessica C. Mroz
 Office of Air Policy and Program Support
 U.S. Environmental Protection Agency
 Telephone: (202) 564-1094

From: Lubetsky, Jonathan
Sent: Tuesday, December 11, 2018 1:21 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Harlow, David <harlow.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Shoaff, John <Shoaff.John@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Mroz, Jessica <mroz.jessica@epa.gov>; Hockstad, Leif <Hockstad.Leif@epa.gov>
Subject: Draft Administrator Nomination One-Pagers for OAR IO Review

Good afternoon,

I have attached 19 of the 27 one-pagers the program offices have drafted for the Administrator's nomination prep materials for your review. OAR staff worked with OGC in drafting the one-pagers.

We had some late additions from OCIR and moving deadlines, so we are still waiting on the topics below. I will send these along in another batch once they are complete, likely tomorrow.

- Aircraft GHG Rulemaking
- Cleaner Trucks Initiative
- Glider Kits
- National Climate Assessment
- Parity for Natural Gas Vehicles with Electric Vehicles
- Quick-Start Gas-Fired Combustion Turbines
- RFS
- SAFE/CAFE

OCIR asked for these materials by **COB Friday, December 14th**. As a reminder, they are also asking for Q&As on each topic. We are aware that OCIR may already have compiled some, and whoever attends the briefing may also be prepared to ask questions. However, please let us know if you would like any assistance in drafting. Please send any edits/ comments to Jessie Mroz, John Shoaff and me by **noon on Friday December 14th**.

Thank you,
Jonathan Lubetsky

<OTAQ - RFS-Small Refinery Exemptions.docx>

<OTAQ - RFS-Reset Rule.docx>

<OTAQ - RFS-E15 and RIN Mkt Reform.docx>

<OTAQ - RFS-RIN Costs.docx>

<OTAQ - RFS-Biodiesel.docx>

<OTAQ - RFS-General.docx>

<OTAQ - RFS-Reallocation of RINs & Opposing Reallocation.docx>

<OTAQ - SAFE-CAFE CLEAN.docx>

<Quick-Start Turbines-12-12-2018.docx>

<OTAQ - Glider Kits CLEAN.docx>

<OTAQ - Aircraft GHG.docx>

<OTAQ - Cleaner Trucks Initiative CLEAN.docx>

<OTAQ - Parity for Natural Gas Vehicles with Electric Vehicles.docx>

<NCA4 1-pager 12-10-18.docx>

Message

From: Mroz, Jessica [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=64B0C7F807DF436A9B40CE52F7DEC34C-MROZ, JESSI]
Sent: 12/13/2018 12:11:56 AM
To: Lubetsky, Jonathan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e125d09a658e48119789ccae5712b4a5-JLUBETSK]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]; Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]
CC: Shoaff, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ac16fb09cf2c44adb34a7405dc331532-JShoaff]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Hockstad, Leif [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a4fb1f8930645efa34fdfa7485bc6da-LHOCKSTA]
Subject: RE: Draft Administrator Nomination One-Pagers for OAR IO Review
Attachments: OTAQ - RFS-Small Refinery Exemptions.docx; OTAQ - RFS-Reset Rule.docx; OTAQ - RFS-E15 and RIN Mkt Reform.docx; OTAQ - RFS-RIN Costs.docx; OTAQ - RFS-Biodiesel.docx; OTAQ - RFS-General.docx; OTAQ - RFS-Reallocation of RINs & Opposing Reallocation.docx; OTAQ - SAFE-CAFE CLEAN.docx; Quick-Start Turbines-12-12-2018.docx; OTAQ - Glider Kits CLEAN.docx; OTAQ - Aircraft GHG.docx; OTAQ - Cleaner Trucks Initiative CLEAN.docx; OTAQ - Parity for Natural Gas Vehicles with Electric Vehicles.docx; NCA4 1-pager 12-10-18.docx

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As Jonathan said, OCIR asked for these materials by **COB Friday, December 14th**. Please send any edits/ comments to Jonathan, John Shoaff and me by **noon on Friday December 14th**.

Best,
 Jessie

Jessica C. Mroz

Office of Air Policy and Program Support
 U.S. Environmental Protection Agency
 Telephone: (202) 564-1094

From: Lubetsky, Jonathan
Sent: Tuesday, December 11, 2018 1:21 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Harlow, David <harlow.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Shoaff, John <Shoaff.John@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Mroz, Jessica <mroz.jessica@epa.gov>; Hockstad, Leif <Hockstad.Leif@epa.gov>
Subject: Draft Administrator Nomination One-Pagers for OAR IO Review

Good afternoon,

I have attached 19 of the 27 one-pagers the program offices have drafted for the Administrator's nomination prep materials for your review. OAR staff worked with OGC in drafting the one-pagers.

We had some late additions from OCIR and moving deadlines, so we are still waiting on the topics below. I will send these along in another batch once they are complete, likely tomorrow.

Deliberative Process / Ex. 5

OCIR asked for these materials by **COB Friday, December 14th**. As a reminder, they are also asking for Q&As on each topic. We are aware that OCIR may already have compiled some, and whoever attends the briefing may also be prepared to ask questions. However, please let us know if you would like any assistance in drafting. Please send any edits/ comments to Jessie Mroz, John Shoaff and me by **noon on Friday December 14th**.

Thank you,

Jonathan Lubetsky

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 7/25/2018 11:35:26 PM
To: Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: Re: fact sheet update

Thanks. We'll print in the am

On Jul 25, 2018, at 6:15 PM, Woods, Clint <woods.clint@epa.gov> wrote:

#s 18 -22 attached, and I'm fine with Brick MACT. Thanks!

From: Lewis, Josh
Sent: Wednesday, July 25, 2018 5:28 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: fact sheet update

I'm putting 17 of the 22 in your (and Bill's book tonight). Rest coming in the am

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 7/31/2018 10:51:55 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: RE: SRE Response
Attachments: dshRLSOGrassley Rewrite_DRAFT 2018 07 30 (002).docx

Here is an RLSO, with citations filled in (hopefully correctly; I erred on the side of being broad, as you'll see) and also some editorial suggestions that you didn't ask for.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Gunasekara, Mandy
Sent: Tuesday, July 31, 2018 6:25 PM
To: Harlow, David <harlow.david@epa.gov>
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: SRE Response

Attached is the latest draft with requested edits. Please read through. Harlow - you are going to add the cites.

Mandy M. Gunasekara
Principal Deputy Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency

Message

From: Stahle, Susan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B25318C6014D4FB985288E15143C8596-SSTAHLE]
Sent: 7/13/2018 4:41:42 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]; Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]
Subject: RE: ABFA litigation - draft motion to dismiss for your review
Attachments: ENV_DEFENSE-#848073-v1-advanced_biofuels_final_motion_to_dismiss.DOC; ENV_DEFENSE-#848073-v1-advanced_biofuels_final_motion_to_dismiss.pdf

Hi Mandy –

Attached is a revised version of the motion to dismiss (with a PDF version included for Justin).

Deliberative Process; ACP / Ex. 5

Thanks,

Susan Stahle
 Air and Radiation Law Office
 Office of General Counsel
 U.S. Environmental Protection Agency
 WJCN-7502B
 202-564-1272

From: Gunasekara, Mandy
Sent: Thursday, July 12, 2018 11:20 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>; Harlow, David <harlow.david@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: ABFA litigation - draft motion to dismiss for your review

Deliberative Process; ACP / Ex. 5

Deliberative Process; ACP / Ex. 5

I'm around tomorrow if we need to discuss anything else. Please send around the final, amended version before being sent to DOJ. If necessary, I can make myself available tomorrow to chat with DOJ if they have any concerns.

Thanks all.

Mandy

From: Srinivasan, Gautam
Sent: Thursday, July 12, 2018 9:28 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>; Harlow, David <harlow.david@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Fwd: ABFA litigation - draft motion to dismiss for your review

Mandy- The brief is attached. The relevant sections should be highlighted.

++++
202-564-5647 (o)
202-695-6287 (c)

Begin forwarded message:

From: "Stahle, Susan" <Stahle.Susan@epa.gov>
Date: July 12, 2018 at 1:19:59 PM EDT
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Cc: "Harlow, David" <harlow.david@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>
Subject: ABFA litigation - draft motion to dismiss for your review

Hi Bill –

Attached is a clean version of the draft motion to dismiss in the ABFA litigation we discussed today

Deliberative Process; ACP / Ex. 5

Thanks,

Sue

Message

From: Palich, Christian [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=330AD62E158D43AF93FCBBECE930D21A-PALICH, CHR]
Sent: 7/25/2018 10:28:51 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: Re: fact sheet update

We do not.

Christian R. Palich
 Deputy Associate Administrator
 Office of Congressional Affairs
 C: 202.306.4656

Sent from my iPhone

On Jul 25, 2018, at 6:25 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

OCIR- do you guys have BRICK mact?

Sent from my iPhone

On Jul 25, 2018, at 6:21 PM, Dominguez, Alexander <dominguez.alexander@epa.gov> wrote:

I believe this is the last of them

Sent from my iPhone

Begin forwarded message:

From: "Woods, Clint" <woods.clint@epa.gov>
Date: July 25, 2018 at 6:15:53 PM EDT
To: "Lewis, Josh" <Lewis.Josh@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Cc: "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>
Subject: RE: fact sheet update

#s 18 -22 attached, and I'm fine with Brick MACT. Thanks!

From: Lewis, Josh
Sent: Wednesday, July 25, 2018 5:28 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint

<woods.clint@epa.gov>

Cc: Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander
<dominguez.alexander@epa.gov>

Subject: fact sheet update

I'm putting 17 of the 22 in your (and Bill's book
tonight). Rest coming in the am

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Sutton, Tia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=25E87403F63143ACBB959446512A372C-SUTTON, TIA]
Sent: 7/30/2018 9:18:22 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: Small refinery hardship letter from Sens. Thune, Grassley, et al.
Attachments: AL-18-000-6271_Thune et al.pdf; AL-18-000-6413_Grassley.pdf; Signed Letter to The Honorable Charles E. Grassley and 12 colleagues.pdf

Hi Mandy,

Attached is the letter from Sens. Thune, Grassley, Blunt, Fischer, and Ernst to the President on RFS small refinery hardships. As we mentioned, all 5 of the Senators on this letter were also on the letter that Sen Grassley sent to EPA, so they all received the previous response that was sent out (the Grassley incoming letter & response are also attached here).

Deliberative Process / Ex. 5

Thanks,
Tia

United States Senate

WASHINGTON, DC 20510

April 12, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

We are writing to you regarding the actions the Environmental Protection Agency (EPA) has taken to undermine commitments President Trump made on the Renewable Fuel Standard (RFS) to our constituents. Recent reports indicate dozens of small refiner waivers have been secretly granted to large, multi-billion-dollar companies under the guise of the small refinery hardship exemption provision in section 211(o)(9) of the Clean Air Act. This is extremely concerning to us.

During your confirmation hearing for the post of Administrator of the EPA, you said, *"Any steps that the EPA Administrator takes need to be done in such a way as to further the objectives of Congress in that statute, not undermine the objectives of Congress in that statute."* You also wrote to a number of Senators in October 2017 and said, *"I reiterate my commitment to you and your constituents to act consistent with the text and spirit of the RFS. I take seriously my responsibility to do so in an open and transparent manner that advances the full potential of this program..."*

According to recent reports, the EPA has already issued 25 "disproportionate hardship" waivers to large, multi-billion-dollar refining companies reporting billions of dollars of profits since 2016. Such action would represent a clear violation of your commitments and clearly undermine the President's long-standing support of the RFS.

These waivers fall well outside the bounds of the letter or spirit of this provision in the law, which sought to provide flexibility for the smallest of U.S. refiners, and only in cases of genuine hardship. Worse, EPA's actions are already hurting biofuel producers and farmers across the United States at a time when farm income is at the lowest levels since 2006 and retaliatory trade measures from China threaten to deepen the crisis.

In 2015, 37 Senators wrote to the EPA requesting that the agency issue a strong Renewable Volume Obligation (RVO), citing the RFS's success in driving economic development, strengthening agriculture markets, and creating hundreds of thousands of clean energy jobs in rural communities. Early reports indicate that the small refinery waivers you have granted could effectively cut biofuel demand by 1.5 billion gallons, thus effectively lowering President Trump's commitment to seeing 15 billion gallons of ethanol blended to 13.5 billion. Additionally, once these select refiners are no longer responsible for complying with these 2016 requirements, they are able to sell excess Renewable Identification Numbers (RINs) back into the market, increasing supply and lowering the price.

This further reduces incentives for blending, slashing demand for biofuels and feedstocks, and hurting farmers and biofuels companies. These waivers could cripple the market for years to come, holding back homegrown biofuels while creating a windfall profits for large oil refiners -- the exact opposite of this administration's promise to voters.

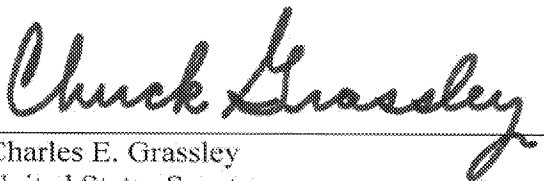
Perhaps most concerning, these lucrative waivers have reportedly been issued behind closed doors, outside of the public process, while the EPA has simultaneously been working with refineries to pressure President Trump to sign off on a RIN cap that would wreak further havoc on the RFS.

We request that you take the following actions immediately:

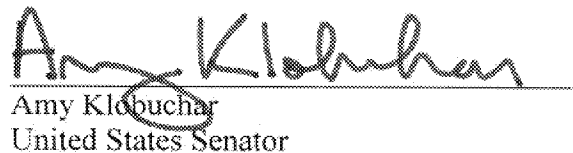
- Cease issuing any refinery waivers under the RFS;
- Provide a full list of the refiners that have received a refinery waiver in 2016, 2017 or 2018, including the name, location, refining capacity, date waiver was issued, and number of gallons waived;
- Provide a detailed report to Congress within two weeks of receipt of this letter that describes your justification for providing each of these waivers. Specifically, please include whether the volumes were redistributed to other obligated parties. If the volumes were not redistributed, please explain why they were not and the reason EPA decided to undercut the RVOs against the President's commitment;
- Respond in writing describing your commitment and plan to consider future small refinery waivers only during the annual RVO rulemaking process and commitment to provide full notice and opportunity for comment on any future small refinery waiver requests.

We appreciate your timely response to these matters.

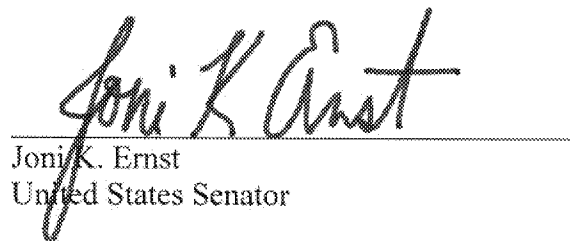
Sincerely,



Charles E. Grassley
United States Senator



Amy Klobuchar
United States Senator



Joni K. Ernst
United States Senator



Debbie Stabenow
United States Senator



Deb Fischer
United States Senator



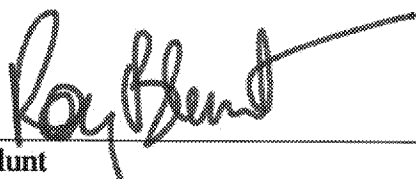
Richard J. Durbin
United States Senator



John Thune
United States Senator



Tina Smith
United States Senator



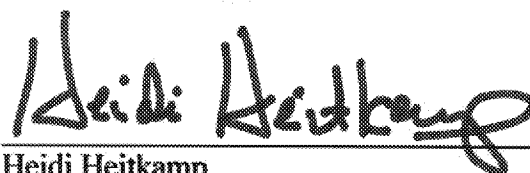
Roy Blunt
United States Senator



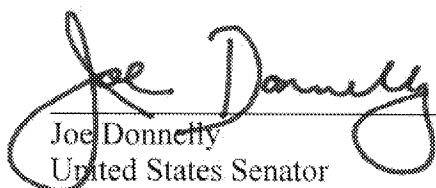
Claire McCaskill
United States Senator



Tammy Duckworth
United States Senator



Heidi Heitkamp
United States Senator



Joe Donnelly
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Charles E. Grassley
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

Your letter requests information related to those small refineries granted exemptions in 2016, 2017, and 2018. EPA is unable to provide information that is fully responsive to your request, as we treat both the names of individual petitioners and EPA's decision on those petitions as Confidential Business Information (CBI), pending a final CBI determination by EPA's Office of General Counsel. However, we can share the following aggregated information regarding SREs granted in recent years:

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EPA appreciates the importance of the RFS program to stakeholders across the country, including farmers, producers, and obligated parties like refiners and importers. As such, we are interested in ensuring the program is implemented in a fair and effective manner. EPA also appreciates the important role Congress has and will continue to play in the success of the program. As such, we look forward to working with you and your colleagues as we continue to look for opportunities to improve the operation of the program.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Karen Thundiyil in the EPA's Office of Congressional and Intergovernmental Relations at thundiyil.karen@epa.gov or 202-564-1142.

Sincerely,

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Joe Donnelly
United States Senate
Washington, D.C. 20510

Dear Senator Donnelly:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Tammy Duckworth
United States Senate
Washington, D.C. 20510

Dear Senator Duckworth:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Richard J. Durbin
United States Senate
Washington, D.C. 20510

Dear Senator Durbin:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Joni K. Ernst
United States Senate
Washington, D.C. 20510

Dear Senator Ernst:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Deb Fischer
United States Senate
Washington, D.C. 20510

Dear Senator Fischer:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Heidi Heitkamp
United States Senate
Washington, D.C. 20510

Dear Senator Heitkamp:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

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- We have not yet received any petitions for the 2018 compliance year.

EPA appreciates the importance of the RFS program to stakeholders across the country, including farmers, producers, and obligated parties like refiners and importers. As such, we are interested in ensuring the program is implemented in a fair and effective manner. EPA also appreciates the important role Congress has and will continue to play in the success of the program. As such, we look forward to working with you and your colleagues as we continue to look for opportunities to improve the operation of the program.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Karen Thundiyil in the EPA's Office of Congressional and Intergovernmental Relations at thundiyil.karen@epa.gov or 202-564-1142.

Sincerely,

A handwritten signature in black ink, appearing to read 'W L Wehrum', with a long, sweeping horizontal stroke at the end.

William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Amy Klobuchar
United States Senate
Washington, D.C. 20510

Dear Senator Klobuchar:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Claire McCaskill
United States Senate
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Tina Smith
United States Senate
Washington, D.C. 20510

Dear Senator Smith:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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Internet Address (URL) • <http://www.epa.gov>

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ED_002308_00105496-00021

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable Debbie Stabenow
United States Senate
Washington, D.C. 20510

Dear Senator Stabenow:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 12, 2018

OFFICE OF
AIR AND RADIATION

The Honorable John Thune
United States Senate
Washington, D.C. 20510

Dear Senator Thune:

Thank you for your letter of April 12, 2018, to the U.S. Environmental Protection Agency, regarding small refinery exemptions (SREs) granted to certain obligated parties under the Renewable Fuel Standard (RFS) program.

Congress established the small refinery exemption program recognizing that small refineries may, in some cases, require hardship exemptions under the RFS program. Section 211(o)(9) of the Clean Air Act (CAA) authorizes the Administrator to temporarily exempt small refineries from their renewable fuel volume obligations under the RFS program on the basis of a finding of "disproportionate economic hardship" (DEH). The statute directs EPA, in consultation with the Department of Energy (DOE), to consider the DOE Small Refinery Study and "other economic factors" in evaluating small refinery exemption petitions. Over the past several years, working in close consultation with DOE, EPA has implemented the SRE provisions of the CAA. We appreciate that the SREs granted over the past several months have been the focus of many stakeholders' attention, but we are required by statute to implement these provisions and we will continue to manage the program consistent with the law.

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William L. Wehrum
Assistant Administrator

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 6/20/2018 10:25:59 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
CC: Daniell, Kelsi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cd867173479344b3bda202b3004ff830-Daniell, Ke]
Subject: FOR REVIEW: missouri
Attachments: DRAFT 6-22-18 Press Release.docx

Mandy –

I wanted to get a head start on the press release for Friday. I used information from your email earlier today, but this doesn't have any specific. Please edit away so we can have copy finalized before the event on Friday. Let me know if you have any questions. The draft is attached/below. Chris (cc'd) will add in a quote for the Administrator.

Thanks for all your help on this!
Molly

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 7/23/2018 3:02:33 PM
To: Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: RE: RFS talkers
Attachments: RFS General Talkers_July 23 2018_Final.docx

The attached RFS talking points for the RA have been approved by Mandy. I'll note that these are tailored for the RA's and depending on context, may not be appropriate for other uses.

-----Original Message-----

From: Beach, Christopher
 Sent: Monday, July 23, 2018 10:16 AM
 To: Bennett, Tate <Bennett.Tate@epa.gov>
 Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>
 Subject: Re: RFS talkers

I have some sorghum talkers that I wrote based on the stuff Mandy sent around. I'll run it by you all and Mandy for approval.

Sent from my iPhone

> On Jul 23, 2018, at 10:11 AM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:
 >
 > Thank you! While we are at it, he will likely need sorghum talkers tomorrow if Chris B hasn't hit you up already!
 >
 > -----Original Message-----
 > From: Dominguez, Alexander
 > Sent: Monday, July 23, 2018 9:32 AM
 > To: Bennett, Tate <Bennett.Tate@epa.gov>
 > Subject: RFS talkers
 >
 > I will have these sent to you within the hour.
 >
 > Sent from my iPhone

Message

From: Srinivasan, Gautam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D69332838210416BA51779B19025F832-GSRINIVA]
Sent: 7/13/2018 1:27:40 AM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]; Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]; Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
Subject: Fwd: ABFA litigation - draft motion to dismiss for your review
Attachments: ABFA v EPA - motion to dismiss - draft - clean - 071218.doc; ATT00001.htm

Mandy- The brief is attached. The relevant sections should be highlighted.

+++++
 202-564-5647 (o)
 202-695-6287 (c)

Begin forwarded message:

From: "Stahle, Susan" <Stahle.Susan@epa.gov>
Date: July 12, 2018 at 1:19:59 PM EDT
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Cc: "Harlow, David" <harlow.david@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>
Subject: ABFA litigation - draft motion to dismiss for your review

Hi Bill –

Attached is a clean version of the draft motion to dismiss in the ABFA litigation we discussed today.

Attorney Client / Ex. 5

Thanks,

Sue

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 7/25/2018 10:21:51 PM
To: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: Fwd: fact sheet update
Attachments: OAR- Oil-Gas NSPS cw.docx; ATT00001.htm; OAR- NAAQS General SETTING and DESIGNATING cw.docx; ATT00002.htm; OAR- NAAQS General ATTAINMENT cw.docx; ATT00003.htm; OAR- Cross State Air Pollution Rule (CSAPR) cw.docx; ATT00004.htm

I believe this is the last of them

Sent from my iPhone

Begin forwarded message:

From: "Woods, Clint" <woods.clint@epa.gov>
Date: July 25, 2018 at 6:15:53 PM EDT
To: "Lewis, Josh" <Lewis.Josh@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Cc: "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>
Subject: RE: fact sheet update

#s 18 -22 attached, and I'm fine with Brick MACT. Thanks!

From: Lewis, Josh
Sent: Wednesday, July 25, 2018 5:28 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: fact sheet update

I'm putting 17 of the 22 in your (and Bill's book tonight). Rest coming in the am

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Daniell, Kelsi [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CD867173479344B3BDA202B3004FF830-DANIELL, KE]
Sent: 6/27/2018 4:11:25 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]
Subject: Fwd: Reuters: Factbox: Ethanol, oil groups criticize U.S. biofuels plan; biodiesel sector cheers, 6/26/18

Just making sure y'all saw this

Sent from my iPhone

Begin forwarded message:

From: "Hassell, Emily" <hassell.emily@epa.gov>
Date: June 27, 2018 at 9:34:22 AM CDT
To: AO OPA Individual News Clips <AO_OPA_Ind_News_Clips@epa.gov>
Subject: Reuters: Factbox: Ethanol, oil groups criticize U.S. biofuels plan; biodiesel sector cheers, 6/26/18

Reuters

<https://www.reuters.com/article/us-usa-biofuels-reaction-factbox/factbox-ethanol-oil-groups-criticize-u-s-biofuels-plan-biodiesel-sector-cheers-idUSKBN1JM2ZC>

Factbox: Ethanol, oil groups criticize U.S. biofuels plan; biodiesel sector cheers
 6/26/18, 5:36 PM

NEW YORK (Reuters) - The U.S. Environmental Protection Agency (EPA) on Tuesday proposed a 3 percent increase in total renewable fuel volume requirements for next year, sparking criticism from some ethanol and oil groups and cheers from U.S. biodiesel producers.

Below are comments on the proposal, which the EPA is required to finalize by Nov. 30.

ADVANCED BIOFUELS BUSINESS COUNCIL

"On its face, the EPA proposal is promising. It reverses last year's roll back of cellulosic biofuels, and it opens growth opportunities for advanced producers who are establishing new revenue streams for rural America. But until there is some check on the EPA's abuse of waivers, regulatory uncertainty will continue to threaten investments in advanced biofuels," said Brooke Coleman, executive director.

AMERICAN PETROLEUM INSTITUTE

"EPA made the right call in not reallocating the waived small refiner exemption volumes, however the agency's latest proposal for 2019 is yet another example – in fact it's an annual example of a broken government program that needs a comprehensive legislative solution that includes the sunset of the program," said Downstream Group Director Frank Macchiarola.

"The RFS is a backward-looking policy that doesn't reflect today's energy market realities of strong domestic energy production."

BIOTECHNOLOGY INNOVATION ORGANIZATION

"We welcome EPA's decision to raise the advanced and cellulosic biofuel volumes in its proposal, which will help propel the industry forward in 2019. However, the advanced biofuels industry is still suffering the effects of the Agency's decision to arbitrarily limit growth for low carbon biofuels in 2018, by setting a backward looking RFS requirement. The 2019 volumes should be higher, to correct from last year and also spur growth for the coming year," said Executive Vice President Brent Erickson.

JONI ERNST, REPUBLICAN SENATOR FROM IOWA

"As the state that leads the nation in renewable fuels production, Iowa farmers deserve honesty and transparency from the EPA on the Renewable Fuel Standard (RFS). The proposed uptick in the amount of renewable fuel that refiners blend into transportation fuel is encouraging, but does not make up for about 1.5 billion gallons lost by Administrator Pruitt's decision to hand out an unprecedented number of small refinery waivers."

GROWTH ENERGY

"The EPA proposed 15 billion gallons for conventional biofuels, but that still isn't a real number we can count on. This plan fails to ensure those gallons will, in fact, be blended. By neglecting to reallocate gallons lost to waivers, the EPA is doubling down on another year of an estimated 1.5 billion gallons in demand destruction," said Chief Executive Officer Emily Skor.

IOWA RENEWABLE FUELS ASSOCIATION

"This is a status quo proposal for ethanol and the status quo is bad," said Executive Director Monte Shaw. "The ethanol number isn't worth the paper it's written on so long as Scott Pruitt is granting small refinery exemptions left and right – even beyond what the Department of Energy recommends."

NATIONAL BIODIESEL BOARD

"We welcome the administration's proposal to grow the biodiesel volumes, following two flatlined years. This is a positive signal for our industry and we're pleased the EPA has acknowledged our ability to produce higher volumes. We've consistently demonstrated that we can do much more," said Kurt Kovarik, vice president of federal affairs.

NATIONAL FARMERS UNION

"It is promising that the EPA is planning to increase the volume of American grown and produced fuels in our transportation sector. However, the proposal does not do enough to account for the demand destruction of over a billion gallons of renewable fuels," said Rob Larew, senior vice president of public policy and communications.

RENEWABLE FUELS ASSOCIATION

"It would seem a hollow and cynical exercise to praise or thank EPA Administrator Pruitt for appearing to follow the statute with this proposed RVO," said President and CEO Bob Dinneen.

"While we acknowledge that the implied 15 billion-gallon requirement for conventional biofuels like corn ethanol should, in theory, send a positive signal to the market, it comes with the backdrop of 1.6 billion gallons of demand destroyed by illegal waivers to small refineries and no commitment that EPA is changing its approach to granting these exemptions."

JOHN BARRASSO, REPUBLICAN SENATOR FROM WYOMING

"EPA made the right decision to follow the law, which explicitly allows small refineries to apply for hardship relief 'at any time.' EPA also made the right decision not to transfer the burden of small refineries to other refineries. Today, the agency has taken a positive step to protect American workers and reduce the way this broken program distorts the fuel market."

THE FUELING AMERICAN JOBS COALITION

“If the ethanol industry would like to open the renewable fuel standard to reform in a comprehensive way, we are confident that many parties – fuel makers, environmentalists, consumer groups and others – would be very happy to join in. Frankly, clarifying the SRE program is the least of the problems with the RFS. Making it more sensitive to the current realities of the fuel market would be a much better place to start.”

THOMAS J. PYLE, PRESIDENT OF AMERICAN ENERGY ALLIANCE

“Today’s proposal ignores the underlying problems of the Renewable Fuel Standard. This fundamentally broken Washington-knows-best regulation causes millions of American families and businesses to pay more at the pump.”

KEVIN SKUNES, PRESIDENT OF THE NATIONAL CORN GROWERS ASSOCIATION

“It is encouraging that EPA is following Congressional intent and proposing some growth in the RFS volumes and continuing to propose an implied 15-billion-gallon volume for conventional ethanol. However, by continuing to allow retroactive exemptions to refineries, EPA will undercut the volumes in this rule, rendering the proposed blending levels meaningless.”

CHET THOMPSON, PRESIDENT & CEO OF AMERICAN FUEL AND PETROCHEMICAL MANUFACTURERS

“EPA proposed to double-down on the most failed parts of the Renewable Fuel Standard. Higher cellulosic and biodiesel volumes— that are not connected to reality — would compound problems for consumers and refiners and continue the legacy of RFS dependence on expensive biodiesel imports. The RFS is a broken mandate and U.S. manufacturers, refiners and consumers are paying the price. Congress must reform this program.”

Message

From: Graham, Cheryl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC456030F1A7475397AFE7895933BAEC-CGRAHAM]

Sent: 6/27/2018 4:03:31 PM

To: Harnett, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=437834c4b30541d2beb0386cc3d0e253-WHARNETT]; Tsirigotis, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c179f3ccb4fadb48e3ae85563f132-PTSIRIGO]; Henigin, Mary [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cbe828e291f4facb492fc28261db45f-MHenigin]; Davis, Alison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1c309f42d5d44d18a52b027bd0112778-ADAVIS06]; Montoro, Marta [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02244a49b2b14d77b2a9e749dd87f704-MMONTORO]; Rush, Alan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=87bd4df8264d4490afe9414cb28062b9-ARush]; Schillo, Bruce [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a71c3eb16aeb4bd2a0b3e1c950c44111-Bschill]; Holmes, Carol [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a63f745584114ae9b119547a4dc845fd-Holmes, Carol]; Mazakas, Pam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fde3017279c64e3ebff1ad7dc5d5b835-Pmazakas]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; South, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ead249df78840c9928874ec2ec4f9a6-PSouth]; Lipshultz, Jon (ENRD) [Jon.Lipshultz@usdoj.gov]; Christopher.Vaden@usdoj.gov; Wood, Anna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39055f080135414ca3b8c18d4f578755-AWood02]; Edwards, Crystal [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0d40b5f15b2a4c438f44bbae579d829a-Edwards, Crystal]; Mathias, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4be52cdccca348eeb5cd1efebe6caf24-SMATHIAS]; Chapman, Apple [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c52a18bcf6164b6d9f04545db694cac1-ACHAPMAN]; South, Mia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ffac1c6273e4b439a0852a1159885ca-South, Mia]; Cortelyou-Lee, Jan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=75b1eec7b16e46d5b9114935fc6a771e-JCORTELY]; Smith, Kristi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed7a08d522c54f2fa8387a7b5771d8d5-Smith, Kristi]; Iglesias, Amber [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed1da89f33f24b5b9f2c4b9bcf91a2ad-Iglesias, A]; Schachter, Scott (ENRD) [Scott.Schachter@usdoj.gov]; Doyle, Andrew (ENRD) [Andrew.Doyle@usdoj.gov]; leslie.hill@usdoj.gov [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user01591315]; Maghamfar, Dustin (ENRD) [Dustin.Maghamfar@usdoj.gov]; Mitchell, Ken [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e49335e2f5a64cbfa97c39cbf1faff2b-Mitchell, Kenneth]; Wortman, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a6a4541680f4c89adaf1198de1925c4-Wortman, Eric]; Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]; Purdy, Angeline (ENRD) [Angeline.Purdy@usdoj.gov]; Debra Carfora [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user02767177]; Perez, Idalia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03b7a08fdbe4934911f17550d78491d-IPEREZ]; martha.mann@usdoj.gov [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user07624bb3]; Dunham, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group

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Subject: ARLO Deadline Calendar as of June 25, 2018

Attachments: 18-06-25 ARLO Deadline Calendar.docx

Attached is the current deadline calendar and other information that is sent out weekly from ARLO. If information in the attachment raises questions, please contact Gautam Srinivasan. Thanks

Cheryl R. Graham
 OGC/ARLO
 (202) 564-5473

Message

From: Graham, Cheryl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC456030F1A7475397AFE7895933BAEC-CGRAHAM]

Sent: 12/11/2018 11:05:07 PM

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 [/o=ExchangeLabs/ou=Exchange Administrative Group
 (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c513901d4fd49f9ab101a6f7a7a863e-Koerber, Mike]

Subject: ARLO Deadline Calendar for the week of December 10, 2018

Attachments: 18-12-10 ARLO Deadline Calendar.docx

Attached is the current deadline calendar and other information that is sent out weekly from ARLO. If information in the attachment raises questions, please contact Gautam Srinivasan. Thanks

Cheryl R. Graham
 OGC/ARLO
 (202) 564-5473

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 7/19/2018 3:31:05 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
CC: Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]
Subject: RE: FOR REVIEW: Hengst statement at RFS hearing

Thank you!

From: Gunasekara, Mandy
Sent: Thursday, July 19, 2018 11:30 AM
To: Block, Molly <block.molly@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>
Subject: RE: FOR REVIEW: Hengst statement at RFS hearing

Deliberative Process / Ex. 5

From: Block, Molly
Sent: Thursday, July 19, 2018 11:29 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>
Subject: RE: FOR REVIEW: Hengst statement at RFS hearing

Deliberative Process / Ex. 5

From: Block, Molly
Sent: Wednesday, July 18, 2018 11:51 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>
Cc: Hewitt, James <hewitt.james@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>
Subject: FOR REVIEW: Hengst statement at RFS hearing

On today's hearing:

Deliberative Process / Ex. 5

On small refinery waivers/RVO process:

Deliberative Process / Ex. 5

From: Elliott Blackburn [<mailto:elliott.blackburn@argusmedia.com>]

Sent: Wednesday, July 18, 2018 11:46 AM

To: Press <Press@epa.gov>

Subject: Hengst statement at RFS hearing

Good morning,

Can EPA provide more color regarding a comment the agency made to speakers this morning at the RFS hearing in Michigan? Does EPA anticipate changing its approach to small refinery waivers as part of the current RVO process? How does acting administrator Wheeler think EPA should handle the large number of 2017 small refinery exemptions? Should EPA try to estimate anticipated exemptions as part of the 2019 process?

Ben Hengst was assuring speakers this morning that the EPA was listening to their comments on small refinery waivers and other issues for which the proposed RVO had said the agency would not seek comment:

“Thank you to all the panelists. I can assure you — and obviously we have heard a lot today about the small refinery exemptions — that this is an issue that we were already talking to our leadership, we are going to be spending time with our new leadership on as well. So we appreciate the comments. That goes not just for this topic but for all the topics we are hearing from panelists today.”

I’m filing today on the hearing. Thanks for your help.

Elliott

Elliott Blackburn
Downstream Reporter

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Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 7/19/2018 3:14:43 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Fwd: SAC QFRs -for review and drafting
Attachments: SAC QFRs Final for review_ajd edits.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Dominguez, Alexander" <dominguez.alexander@epa.gov>
Date: July 6, 2018 at 11:34:33 AM EDT
To: "Woods, Clint" <woods.Clint@epa.gov>
Subject: FW: SAC QFRs -for review and drafting

Attached SAC QFRs with my edits.

From: Lewis, Josh
Sent: Wednesday, June 27, 2018 4:17 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Subject: FW: SAC QFRs -for review and drafting

Earlier this week I mentioned this set of QFRs from the Administrator's SAC hearing. Eight questions for review (OAQPS and OTAQ drafted responses) and three (Murkowski #2, Udall #15, Udall #18) that need drafting. (first two are on biomass; Udall #18 covers a range of issues, mostly RIA-related).

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 12/5/2018 9:42:18 PM
To: OAR Briefings [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2da922b09b7a4a18a19571005bff0297-OAR Briefin]
CC: Burch, Julia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=27b0cd43b0404bab89aef0c8d08c165f-Burch, Julia]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: Materials for two fuels meetings on Thursday
Attachments: 2018 Approach and Implications, briefing for AA Wehrum, 2018.12.06.pptx; E15 RVP Rule Update for AA Wehrum, Dec 6 2018 final.pptm

Attached are materials for the two fuels meetings on Thursday (the "2018 Approach" briefing is for the fuels weekly).

Thanks
Ben

Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 8/7/2018 9:01:02 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: RE: RFS talkers for Iowa Monday
Attachments: RFS Memo_AW Iowa State Fair_August 2018_ Draft (V1).docx

Attached is my first crack at the briefing/background memo.

From: Gunasekara, Mandy
Sent: Monday, August 6, 2018 4:31 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Kunding, Kelly <kunding.kelly@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: Re: RFS talkers for Iowa Monday

We can do that.

Sent from my iPhone

On Aug 6, 2018, at 4:10 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

Sorry to bring bad news, but is there any chance **we can get this by COB Wednesday?** Hopefully it's not too much of an inconvenience. Thank you!
 Tate

-----Original Message-----

From: Bennett, Tate
Sent: Monday, August 6, 2018 11:09 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Kunding, Kelly <kunding.kelly@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: RFS talkers for Iowa Monday

OAR- Do you all think you can provide a one-pager for his trip on Monday by Thursday COB?

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 7/19/2018 9:47:33 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clint]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]
CC: Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
Subject: Fwd: Materials for 10am OTAQ Fuels Weekly
Attachments: Agenda for OTAQ Fuels Weekly with Bill W 7-19-18.docx; ATT00001.htm; Condensate One Pager_7.17.18_Clean for CGdocx.docx; ATT00002.htm; A Return to RFS Land Final.pptx; ATT00003.htm

We'll have copies at the 10 am of the attached 3 docs plus a document on reset and BBD

- Agenda
- Condensate one-pager
- Return to RFS Land briefing

Message

From: Starling, Raymond - OSEC, Washington, DC [Raymond.Starling@osec.usda.gov]
Sent: 6/20/2018 2:18:35 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Appleton, Brooke - OSEC, Washington DC [Brooke.Appleton@osec.usda.gov]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Subject: RE: RFS Event

Done.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, June 20, 2018 10:03 AM
To: Starling, Raymond - OSEC, Washington, DC <Raymond.Starling@osec.usda.gov>
Cc: Appleton, Brooke - OSEC, Washington DC <Brooke.Appleton@osec.usda.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: RFS Event

Agreed. Frances is looped in. I have not touched base with Shahira. I actually don't know her as well- Ray, could you follow up with her?

Sent from my iPhone

On Jun 20, 2018, at 9:54 AM, Starling, Raymond - OSEC, Washington, DC <Raymond.Starling@osec.usda.gov> wrote:

Thanks, Mandy. We are glad this is coming together.

Deliberative Process / Ex. 5

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, June 20, 2018 9:41 AM
To: Starling, Raymond - OSEC, Washington, DC <Raymond.Starling@osec.usda.gov>; Appleton, Brooke - OSEC, Washington DC <Brooke.Appleton@osec.usda.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RFS Event

Hey Ray and Brooke,

To keep y'all in the loop on the status of things, Ryan (ccd) reached out to the White House and got sign off/thumbs up for the Friday event. The information he used is included below. Bill and I are working with OMB to get this wrapped up on the regulatory side. Our press team has a draft advisory notice just need Tim Murtaugh's (sorry if I spelled that wrong) contact info- can you have him reach out to Daniell.Kelsi@epa.gov. Tate Bennett from our team is working with Blake on your team to hash out

attendance. I think that is it for now.

I'll call if anything crazy happens.

Best,
Mandy

Deliberative Process / Ex. 5

Sent from my iPhone

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Message

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 7/20/2018 3:13:44 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: RFS Talkers for RA
Attachments: RFS General Talkers_July 20 2018_Draft (V1).docx

Attached are the draft talkers/background on RFS that Tate requested.

Alex Dominguez

Policy Analyst to the Principal Deputy
Office of Air and Radiation
U.S. Environmental Protection Agency

Message

From: Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]
Sent: 6/20/2018 2:01:53 PM
To: Daniell, Kelsi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cd867173479344b3bda202b3004ff830-Daniell, Ke]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Ferguson, Lincoln [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08cd7f82606244de96b61b96681c46de-Ferguson, L]; Kunding, Kelly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e3c9a5d16e2244079e222f342bf9992f-Kunding,]; Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
Subject: Re: Friday update

The gov is out. I'm trying to get Josh Hawley and Jay Ashcroft there though. Ag and sec of state.

On Jun 20, 2018, at 9:55 AM, Daniell, Kelsi <daniell.kelsi@epa.gov> wrote:

Thanks much. How confident are we on state official participation? Gov and Ag Sec

Sent from my iPhone

On Jun 20, 2018, at 9:52 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Yes- perfect. I added a bit more- use the below.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Sent from my iPhone

On Jun 20, 2018, at 9:49 AM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

Mandy- I just sent them the summary you sent RJ last night. If that's still accurate.

On Jun 20, 2018, at 9:44 AM, Daniell, Kelsi <daniell.kelsi@epa.gov> wrote:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let me know what questions you all have re press aspect.

Kelsi

Kelsi Daniell
Press Secretary
Administrator Scott Pruitt
202-564-2413
daniell.kelsi@epa.gov

Message

From: Appleton, Brooke - OSEC, Washington DC [Brooke.Appleton@osec.usda.gov]
Sent: 6/20/2018 1:58:04 PM
To: Starling, Raymond - OSEC, Washington, DC [Raymond.Starling@osec.usda.gov]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Subject: RE: RFS Event

Mandy,

I touched base with Tim and it sounds like he and Kelsi are already in touch. Thanks!

Brooke

From: Starling, Raymond - OSEC, Washington, DC
Sent: Wednesday, June 20, 2018 9:54 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Appleton, Brooke - OSEC, Washington DC <Brooke.Appleton@osec.usda.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RE: RFS Event

Thanks, Mandy. We are glad this is coming together.

Deliberative Process / Ex. 5

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, June 20, 2018 9:41 AM
To: Starling, Raymond - OSEC, Washington, DC <Raymond.Starling@osec.usda.gov>; Appleton, Brooke - OSEC, Washington DC <Brooke.Appleton@osec.usda.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RFS Event

Hey Ray and Brooke,

To keep y'all in the loop on the status of things, Ryan (ccd) reached out to the White House and got sign off/thumbs up for the Friday event. The information he used is included below. Bill and I are working with OMB to get this wrapped up on the regulatory side. Our press team has a draft advisory notice just need Tim Murtaugh's (sorry if I spelled that wrong) contact info- can you have him reach out to Daniell.Kelsi@epa.gov. Tate Bennett from our team is working with Blake on your team to hash out attendance. I think that is it for now.

I'll call if anything crazy happens.

Best,
Mandy

Deliberative Process / Ex. 5

Sent from my iPhone

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Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 6/18/2018 9:36:23 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Re:

I have made edits below (sorry for no redline, I'm on the phone).

Deliberative Process; ACP / Ex. 5

Sent from my iPhone

On Jun 18, 2018, at 4:47 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Deliberative Process / Ex. 5

Mandy M. Gunasekara
Principal Deputy Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency

Message

From: Murtaugh, Tim - OC, Washington, DC [Tim.Murtaugh@oc.usda.gov]
Sent: 6/20/2018 1:56:39 PM
To: Appleton, Brooke - OSEC, Washington DC [Brooke.Appleton@osec.usda.gov]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: RE: RFS Event

We're already in touch with her.

From: Appleton, Brooke - OSEC, Washington DC
Sent: Wednesday, June 20, 2018 9:56 AM
To: Murtaugh, Tim - OC, Washington, DC <Tim.Murtaugh@oc.usda.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: RFS Event

Tim,

Could you reach out to Daniell Kelsi at EPA to coordinate press for the KC event with Administrator Pruitt on Friday? Her email address is below.

Thanks,

Brooke

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
Sent: Wednesday, June 20, 2018 9:41 AM
To: Starling, Raymond - OSEC, Washington, DC <Raymond.Starling@osec.usda.gov>; Appleton, Brooke - OSEC, Washington DC <Brooke.Appleton@osec.usda.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: RFS Event

Hey Ray and Brooke,

To keep y'all in the loop on the status of things, Ryan (ccd) reached out to the White House and got sign off/thumbs up for the Friday event. The information he used is included below. Bill and I are working with OMB to get this wrapped up on the regulatory side. Our press team has a draft advisory notice just need Tim Murtaugh's (sorry if I spelled that wrong) contact info- can you have him reach out to Daniell.Kelsi@epa.gov. Tate Bennett from our team is working with Blake on your team to hash out attendance. I think that is it for now.

I'll call if anything crazy happens.

Best,
Mandy

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Sent from my iPhone

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Message

To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Mandy Gunasekara (Gunasekara.Mandy@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Grundler, Christopher [grundler.christopher@epa.gov]; Josh Lewis [Lewis.Josh@epa.gov]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]
Subject: Revised RFS-Land slides for tomorrow's Wheeler briefing
Attachments: Upcoming RFS Actions and Implications for Wheeler v6.pptx

Bill:

Attached are revised slides. We've added a bit of text on slide 3 then added a new slide 4 to help illuminate the area we talked about this morning **Deliberative Process / Ex. 5**

We will leave it up to you (or Clint/Josh) to send these to the Administrator's office for tomorrow.

Thanks,
Ben

Message

From: Hengst.Benjamin@epa.gov [Hengst.Benjamin@epa.gov]
Sent: 12/19/2018 10:52:27 PM
To: Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
Subject: Fwd: Updated connect the dots briefing
Attachments: Upcoming RFS Actions and Implications for Wheeler v2.pptx; ATT00001.htm

Begin forwarded message:

From: "Burkholder, Dallas" <burkholder.dallas@epa.gov>
Date: December 19, 2018 at 5:33:02 PM EST
To: "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Machiele, Paul" <machiele.paul@epa.gov>
Subject: Updated connect the dots briefing

Have to run now, but here is what I was able to do. Ben, feel free to make edits as you see fit and send to Chris. I can make additional edits tomorrow morning if necessary.

Dallas Burkholder
Office of Transportation & Air Quality
US Environmental Protection Agency
(734)214-4766
Burkholder.Dallas@epa.gov

Appointment

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 3/21/2018 4:39:04 PM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Janet Cohen (cohen.janet@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d94b854e69cd4f9e80db946bf9d1c1b2-Cohen, Janet]; McKenna, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=451b675850124bf4a9db1d577ee3b9af-McKenna, Ch]; Mary Manners (manners.mary@epa.gov) [manners.mary@epa.gov]; Weihrauch, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=74d426b7439045d9a0a65b186ea68b21-Jweihrau]; Machiele, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b71a67c326714ebbaa72eda552e55282-Machiele, Paul]; Dallas Burkholder (burkholder.dallas@epa.gov) [burkholder.dallas@epa.gov]; Parsons, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ba9a64331b0449a93ccc46f74d5d1f0-Parsons, Nick]; Lauren Michaels (Michaels.Lauren@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a44e1a5c23404801bd12621455cde517-Reid, Laure]; Dubois, Roland [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=835458b87b574ccbb1704415df8413d1-RDUBOIS]; Ryland Li (Shengzhi) (Li.Ryland@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf0eac9d34b446f88e03f8ec48274f1-Li, Shengzh]; Argyropoulos, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0149b93d2780437a9c2b6d8477df7991-pargyrop]
CC: Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]
BCC: AA-Room-Office-N120-VideoRoom/AA-OTAQ-OFFICE [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user43a3a900]; DCRoomARN5528p20/DC-OAR-OTAQ-CD [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user6e3fead8]
Subject: Discussion on transparency on RINs/small refinery volumes
Attachments: Discussion on RIN transparency.docx; 18-000-5445_Barrasso_smallrefinersCBI.pdf
Location: AA-Room-Office-N120-VideoRoom/AA-OTAQ-OFFICE; DCRoomARN5528p20/DC-OAR-OTAQ-CD
Start: 3/26/2018 3:00:00 PM
End: 3/26/2018 4:00:00 PM
Show Time As: Busy

Adding materials

Follow-up to today's discussion with Chris

Dial: Conference line number and access codes / Ex. 6
 Code:

Appointment

From: Dominguez, Alexander [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5CED433B4EF54171864ED98A36CB7A5F-DOMINGUEZ,]
Sent: 8/14/2017 5:48:12 PM
To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Kime, Robin [Kime.Robin@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Susan Butler [sbutler@capitolresourcesllc.com]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
CC: Johnson Koch, LeAnn M. (Perkins Coie) [LeAnnJohnson@perkinscoie.com]; Hughes, Krista (Perkins Coie) [KHughes@perkinscoie.com]
Subject: Small Refineries (re: RFS hardship exemption)
Attachments: houseFY18e&wreportlanguage.pdf
Location: 1200 Pennsylvania Avenue, NW (North) - Room 1332 WJCN
Start: 8/15/2017 2:00:00 PM
End: 8/15/2017 3:00:00 PM
Show Time As: Busy

Location: 1200 Pennsylvania Avenue, NW (North) - Room 1332 WJCN

Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station.

EPA Contact: For an escort from Security to the meeting call 202-564-1016 or 202-578-5985

Request:

A coalition of small refineries would like to discuss the RFS hardship exemption.

Attendees:

To follow

Contact:

Susan Butler
Capitol Resources LLC
915 Prince Street
Alexandria, VA 22314
(703)739-5860 (office)
(703)298-2826 (cell)

Appointment

From: McCabe, Janet [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D2CA413E5A534895BD6042D82E5B5F63-MCCABE, JANET]
Sent: 5/5/2016 4:59:24 PM
To: McCabe, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d2ca413e5a534895bd6042d82e5b5f63-McCabe, Janet]; Niebling, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8fb45c85622f4be5a2f0ce12a9798204-Niebling, W]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Lubetsky, Jonathan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e125d09a658e48119789ccae5712b4a5-JLUBETSK]; Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Stewart, Lori [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8404f4ff6c924b2f8f3fb80c3a4467a7-Istewa04]; Read, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=dd15b97b60dd487bb865978544f1f6be-Read, David]; Cohen, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d94b854e69cd4f9e80db946bf9d1c1b2-Cohen, Janet]; Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]; Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]; Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]; Le, Madison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9297d8b52bcb41319ba40d11142ab307-Le, Madison]; Walsh, Ed [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=51f3bac3af644626b6a70f087751baca-EWalsh]
CC: Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]
Subject: Prebrief for Rep. Simpson Meeting
Attachments: RE: Rep. Simpson Meeting; 5/18/2016 "Prebrief for Rep Simpson" meeting
Location: WJC-N 5400 + 1-866-299-3188; Participant Code: 202-356-4740
Start: 5/18/2016 7:00:00 PM
End: 5/18/2016 7:30:00 PM
Show Time As: Busy

To: McCabe, Janet; Niebling, William; Sutton, Tia; Lubetsky, Jonathan; Grundler, Christopher; Hengst, Benjamin; Stewart, Lori; Read, David; Cohen, Janet; Bunker, Byron; Stahle, Susan; Orlin, David; Le, Madison; Walsh, Ed
RE: Rep. Simpson Meeting 5/18/2016 "Prebrief for Rep Simpson" meeting

Appointment

From: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]

Sent: 10/18/2018 7:24:58 PM

To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Janet Cohen (cohen.janet@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d94b854e69cd4f9e80db946bf9d1c1b2-Cohen, Janet]; Machiele, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b71a67c326714ebbaa72eda552e55282-Machiele, Paul]; Dallas Burkholder (burkholder.dallas@epa.gov) [burkholder.dallas@epa.gov]; Nelson, Karen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3492adee9fab4a02956fcf63f0de048b-Nelson, Kar]; Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]; Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]; Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]; Piotrowski, Greg [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=40bd03b05b8a409f91fbb8e3432d01ab-Piotrowski, Greg]; McKenna, Chris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=451b675850124bf4a9db1d577ee3b9af-McKenna, Ch]; Lauren Michaels (Michaels.Lauren@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a44e1a5c23404801bd12621455cde517-Reid, Laure]

CC: Boylan, Thomas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32e90a8aa3b04741a8ffb43f7e8814f5-Boylan, Tho]

Subject: SRE update--yes I know it's late notice

Location: Chris G's offices in DC and AA

Start: 10/18/2018 8:35:00 PM

End: 10/18/2018 9:00:00 PM

Show Time As: Busy

Have an update from the brass on a few SRE topics. I'm out Friday and most of Monday so want to give the download today.

Chris's offices in DC and AA

Conference line number and access codes / Ex. 6	
Code	Conference line number and access codes / Ex. 6

Message

From: David Fialkov [dfialkov@natso.com]
Sent: 10/24/2018 12:43:09 PM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
CC: Rigamonti, Eva [erigamonti@steptoe.com]
Subject: Re: Meeting

Sounds great, we'll see you then.

On Wed, Oct 24, 2018 at 7:10 AM Hengst, Benjamin <Hengst.Benjamin@epa.gov> wrote:

So, the kitchen sink. No problem.

How about 11/13 at 3-4pm?

From: David Fialkov [mailto:dfialkov@natso.com]
Sent: Tuesday, October 23, 2018 6:25 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Rigamonti, Eva <erigamonti@steptoe.com>
Subject: Re: Meeting

We'd want to talk about RVOs, SREs, E15, Transparency nonsense, reset. Is that everything?

The 8th doesn't work for us we're in California at an industry event. Below is what works for us (sooner the better but we know you're all very busy).

October 25 and 26, Nov 1 (1-4pm only), 2 (before 11 or after 2), 9, 12, 13 all day.

Looking forward,

Dave

On Tue, Oct 23, 2018 at 4:14 PM Hengst, Benjamin <Hengst.Benjamin@epa.gov> wrote:

Yes, of course. Eva (copied) and I have been playing phone tag.

What would you want to talk about? Everything? I ask so I know whom to invite. How's November 8 looking, maybe 1-2 or 3-4?

From: David Fialkov [mailto:dfialkov@natso.com]
Sent: Monday, October 22, 2018 10:50 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Meeting

Can Eva and I come in and meet with you and your team at some point in next couple of weeks?

--

David H. Fialkov

Vice President, Government Relations

Legislative and Regulatory Counsel

NATSO, Representing America's Travel Centers and Truckstops

dfialkov@natso.com

(703) 739 - 8501

--

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Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 10/16/2018 6:44:55 PM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]

Friday WH mtg on E15 legal issues
—sub sim data

Tuesday RVO mtg
- SRE focus.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 5/28/2013 8:55:34 PM
To: 'Paul Argyropoulos' [Argyropoulos.Paul@epa.gov]; Machiele, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b71a67c326714ebbaa72eda552e55282-Machiele, Paul]; Lie, Sharyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02041179e5dd4b9e9c5ea63701032c04-slie]; Burkholder, Dallas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=667ef175292d4784997e454a9985b3b3-Burkholder, Dallas]; Korotney, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7b00e16e09654b94bc6146550ca87936-Korotney, David]; Weihrauch, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=74d426b7439045d9a0a65b186ea68b21-Jweihrau]
CC: Simon, Karl [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4d781d1ad595415db3a4e768c2d2b3fc-Simon, Karl]; Ghanta, Venu [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf46c0305194992a35fd4fa7b1b78fc-vghanta]
Subject: draft hearing Q&As
Attachments: QA for House Oversight June 5 2013 RFS hearing (BH).docx

All:

I reviewed/edited/draft responses for the following questions. Please take a look and send me edits by tomorrow afternoon.

Questions on page: 20, 22, 23, 24, 35, 36, 38, 39, 40-46,

(Karl – I think Lori et al are planning to run a combined set of Q&As by OGC and Chris, so if you don't have time to review these now, there will probably be an opportunity later).

Deliberative Process / Ex. 5

Paul M and others, please take a look.

I still need to generate a few more Q&As weren't in this first set?

Deliberative Process / Ex. 5

Paul A are you putting together a second list of Qs that

Thanks, Ben

From: Stewart, Lori
Sent: Thursday, May 23, 2013 5:22 PM
To: Machiele, Paul; Hengst, Benjamin; Weihrauch, John
Cc: Argyropoulos, Paul; Le, Madison; Ghanta, Venu
Subject: FW: Starter Q&A for June 5 RFS hearing - input by COB Wednesday please

Thanks Ben for generating this list of questions.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Paul, Ben, and John, can you or your designee please provide responses to the following questions by COB Wednesday, May 29? Thanks very much.

Paul Machiele or your designee: Page numbers (questions are one per page in Ben's format): 6, 7, 11,12, and 14 thru 19

Ben Hengst or your designee: Pages 20, 22,23,24, 35, 39, 40, 45

John Weihrauch or designee: Pages 21, and 25 thru 34

From: Hengst, Benjamin
Sent: Thursday, May 23, 2013 10:48 AM
To: Argyropoulos, Paul; Le, Madison
Cc: Ghanta, Venu; Stewart, Lori; Simon, Karl
Subject: Starter Q&A for June 5 RFS hearing

Paul, Madison:

As promised, here's a list of Q&As for the hearing prep, to get things moving.

I went back and scoured previous materials and assembled it all in a list.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

At this point I'll turn this completely over to the Paul/Lori/Madison/Venu gang and let you guys run with it. Hopefully this helps you.

Thanks, Ben

Topics

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 5/28/2013 3:11:56 PM
To: Lie, Sharyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02041179e5dd4b9e9c5ea63701032c04-slie]
Subject: FW: Starter Q&A for June 5 RFS hearing - input by COB Wednesday please
Attachments: Q&A for House Oversight June 5, 2013, RFS hearing.docx

Fyi. I'm going to take a shot at answering/updating the questions that might fall under your center (there aren't many – I wrote them!). You'll eventually need to (a) review them and (b) add any Q&As that you think Chris might be asked during the hearing next week.

Nothing needed for now, though.

From: Stewart, Lori
Sent: Thursday, May 23, 2013 5:22 PM
To: Machiele, Paul; Hengst, Benjamin; Weihrauch, John
Cc: Argyropoulos, Paul; Le, Madison; Ghanta, Venu
Subject: FW: Starter Q&A for June 5 RFS hearing - input by COB Wednesday please

Thanks Ben for generating this list of questions.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Paul, Ben, and John, can you or your designee please provide responses to the following questions by COB Wednesday, May 29? Thanks very much.

Paul Machiele or your designee: Page numbers (questions are one per page in Ben's format): 6, 7, 11,12, and 14 thru 19

Ben Hengst or your designee: Pages 20, 22,23,24, 35, 39, 40, 45

John Weihrauch or designee: Pages 21, and 25 thru 34

From: Hengst, Benjamin
Sent: Thursday, May 23, 2013 10:48 AM
To: Argyropoulos, Paul; Le, Madison
Cc: Ghanta, Venu; Stewart, Lori; Simon, Karl
Subject: Starter Q&A for June 5 RFS hearing

Paul, Madison:

As promised, here's a list of Q&As for the hearing prep, to get things moving.

I went back and scoured previous materials and assembled it all in a list.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

At this point I'll turn this completely over to the Paul/Lori/Madison/Venu gang and let you guys run with it. Hopefully this helps you.

Thanks, Ben

Topics

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 5/23/2013 2:48:16 PM
To: Argyropoulos, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0149b93d2780437a9c2b6d8477df7991-pargyrop]; Le, Madison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9297d8b52bcb41319ba40d11142ab307-Le, Madison]
CC: Ghanta, Venu [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf46c0305194992a35fd4fa7b1b78fc-vghanta]; Stewart, Lori [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8404f4ff6c924b2f8f3fb80c3a4467a7-lstewa04]; Karl Simon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4d781d1ad595415db3a4e768c2d2b3fc-Simon, Karl]
Subject: Starter Q&A for June 5 RFS hearing
Attachments: Q&A for House Oversight June 5, 2013, RFS hearing.docx

Paul, Madison:

As promised, here's a list of Q&As for the hearing prep, to get things moving.

I went back and scoured previous materials and assembled it all in a list.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

At this point I'll turn this completely over to the Paul/Lori/Madison/Venu gang and let you guys run with it. Hopefully this helps you.

Thanks, Ben

Topics

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 7/29/2013 12:38:26 PM
To: Burkholder, Dallas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=667ef175292d4784997e454a9985b3b3-Burkholder, Dallas]
Subject: FW: 2013 package update, including edits to forward-looking statement
Attachments: RFS 2013 jm 7-28-13.docx

From: Grundler, Christopher
Sent: Sunday, July 28, 2013 9:05 PM
To: Argyropoulos, Paul; Hengst, Benjamin
Subject: Fw: 2013 package update, including edits to forward-looking statement

Pls see Janet's questions and let me know how you think I should reply.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

C

From: Janet McCabe { **Personal Address / Ex. 6** }
Sent: Sunday, July 28, 2013 8:40:26 PM
To: McCabe, Janet
Cc: Beauvais, Joel; Grundler, Christopher
Subject: RE: 2013 package update, including edits to forward-looking statement

I read through most of the rule, up through the 2014 language anyway, and it was quite an education. I corrected a couple of what seemed to be clear typos—they show up in red on my computer—and highlighted a sentence on p. 42 that likewise has some typos in it, but I wasn't sure how to fix.

Deliberative Process / Ex. 5

(sorry for all the questions—it's generally not helpful to put multiple questions in a single email. You get the idea, though, and we can discuss tomorrow.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Also, I read the letter to refiners, and didn't have any immediate reactions to it. I'll look it over again, though.

Thanks, guys.

--Janet

PS—sending from home email cause remote not working.

From: McCabe, Janet [<mailto:McCabe.Janet@epa.gov>]
Sent: Saturday, July 27, 2013 10:35 PM
To: Janet McCabe
Subject: Fw: 2013 package update, including edits to forward-looking statement

From: Beauvais, Joel
Sent: Friday, July 26, 2013 3:31:49 PM
To: McCabe, Janet
Cc: Grundler, Christopher
Subject: FW: 2013 package update, including edits to forward-looking statement

Janet — Forwarding along OTAQ's proposed passback on 2014-fwd-looking language.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Joel

From: Hengst, Benjamin
Sent: Friday, July 26, 2013 3:09 PM
To: Beauvais, Joel
Cc: Grundler, Christopher; Argyropoulos, Paul; Stewart, Lori
Subject: 2013 package update, including edits to forward-looking statement

Joel:

Per Janet's request we have prepared the next round of edits on the forward-looking statement. See page 66 of the attachment. A few key notes:

1. OMB had a number of suggested edits in their passback, and we continue to get more. The attached document reflects our responses **only** to the forward looking statement. We will be preparing our next full-passback early next week. There are a few issues in the text to nail down outside of the forward-looking statement.
2. I have included some bubble comments on our edits by way of explanation – hopefully they will help. I've also included strike-outs (as opposed to just deleting) to make clear what text from OMB we are suggesting to delete.

I would have copied this into another document, but you lose some of the tracked changes, etc.

Thanks,
Ben

E. Volume Requirements for 2014

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 7/31/2013 6:05:28 PM
To: Korotney, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7b00e16e09654b94bc6146550ca87936-Korotney, David]; Argyropoulos, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0149b93d2780437a9c2b6d8477df7991-pargyrop]; Ghanta, Venu [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf46c0305194992a35fd4fa7b1b78fc-vghanta]; Lie, Sharyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02041179e5dd4b9e9c5ea63701032c04-slie]; Machiele, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b71a67c326714ebbaa72eda552e55282-Machiele, Paul]
Subject: Next iteration: Compiled 2013 standards final review
Attachments: Track changes - 7-24 versus 7-31 v2.docx; EO12866_RFS 2013 Annual Rule 2060-AR43 FRM FRN_20130731 v2.docx

OK, here are the revised docs. I made the changes to both the clean version and the track changes version.

The pen is now Paul's (or Venu's if Paul is done).

From: Korotney, David
Sent: Wednesday, July 31, 2013 1:57 PM
To: Hengst, Benjamin; Argyropoulos, Paul; Ghanta, Venu; Lie, Sharyn; Machiele, Paul
Subject: RE: Compiled 2013 standards final review

I trusted that Ben and Dallas were going to put all the necessary edits into the separate section files on the i: drive. If they aren't there, I don't know why.

From: Hengst, Benjamin
Sent: Wednesday, July 31, 2013 1:37 PM
To: Korotney, David; Argyropoulos, Paul; Ghanta, Venu; Lie, Sharyn; Machiele, Paul
Subject: RE: Compiled 2013 standards final review

David – **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Paul – **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Korotney, David

Sent: Wednesday, July 31, 2013 1:02 PM

To: Argyropoulos, Paul; Hengst, Benjamin; Ghanta, Venu; Lie, Sharyn; Machiele, Paul

Subject: Compiled 2013 standards final review

Here's the compiled version. I have locked all the separate section files on the i: drive. Any further edits should be made directly to this compiled version. Moreover, Paul A has the pen unless he says otherwise.

I understand that Paul and Ben are going to look this over one more time before sending it back to OMB.

FYI, the Track Changes version does not have the bubble comments in the forward-looking language, since bringing those in would have brought in all our other bubble comments as well. If necessary, I can put them into the Track Chasnges version by hand.

I'm heading to a meeting with Chris on the QAP rule

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 7/31/2013 6:23:16 PM
To: Hannon, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25c873d522e94729b8d70106c88cbadf-JHANNON]; Roland Dubois [Dubois.Roland@epa.gov]
CC: Argyropoulos, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0149b93d2780437a9c2b6d8477df7991-pargyrop]; Lie, Sharyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02041179e5dd4b9e9c5ea63701032c04-slie]
Subject: FW: Next iteration: Compiled 2013 standards final review
Attachments: Track changes - 7-24 versus 7-31 v2.docx; EO12866_RFS 2013 Annual Rule 2060-AR43 FRM FRN_20130731 v2.docx

Deliberative Process / Ex. 5

From: Hengst, Benjamin
Sent: Wednesday, July 31, 2013 2:05 PM
To: Korotney, David; Argyropoulos, Paul; Ghanta, Venu; Lie, Sharyn; Machiele, Paul
Subject: Next iteration: Compiled 2013 standards final review

OK, here are the revised docs. I made the changes to both the clean version and the track changes version.

The pen is now Paul's (or Venu's if Paul is done).

From: Korotney, David
Sent: Wednesday, July 31, 2013 1:57 PM
To: Hengst, Benjamin; Argyropoulos, Paul; Ghanta, Venu; Lie, Sharyn; Machiele, Paul
Subject: RE: Compiled 2013 standards final review

I trusted that Ben and Dallas were going to put all the necessary edits into the separate section files on the i: drive. If they aren't there, I don't know why.

From: Hengst, Benjamin
Sent: Wednesday, July 31, 2013 1:37 PM
To: Korotney, David; Argyropoulos, Paul; Ghanta, Venu; Lie, Sharyn; Machiele, Paul
Subject: RE: Compiled 2013 standards final review

David –

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Paul –

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Korotney, David**Sent:** Wednesday, July 31, 2013 1:02 PM**To:** Argyropoulos, Paul; Hengst, Benjamin; Ghanta, Venu; Lie, Sharyn; Machiele, Paul**Subject:** Compiled 2013 standards final review

Here's the compiled version. I have locked all the separate section files on the i: drive. Any further edits should be made directly to this compiled version. Moreover, Paul A has the pen unless he says otherwise.

I understand that Paul and Ben are going to look this over one more time before sending it back to OMB.

FYI, the Track Changes version does not have the bubble comments in the forward-looking language, since bringing those in would have brought in all our other bubble comments as well. If necessary, I can put them into the Track Chasnges version by hand.

I'm heading to a meeting with Chris on the QAP rule

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 8/2/2013 5:08:24 PM
To: Hannon, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25c873d522e94729b8d70106c88cbadf-JHANNON]
Subject: FW: 7/31 EPA Response pertaining to 2013 RFS Volume Standards [RIN 2060-AR43]
Attachments: EO12866_RFS 2013 Annual Rule 2060-AR43 FRM FRN_20130731.docx; Track changes - 7-24 versus 7-31 with all OMB comment bubbles.docx

See p 42, **Deliberative Process / Ex. 5**

From: Ghanta, Venu
Sent: Wednesday, July 31, 2013 3:33 PM
To: Whiteman, Chad
Cc: Korotney, David; Machiele, Paul; Argyropoulos, Paul; Simon, Karl; Hengst, Benjamin; Lie, Sharyn; Farber, Glenn; Nagelhout, Peter; Hannon, John
Subject: 7/31 EPA Response pertaining to 2013 RFS Volume Standards [RIN 2060-AR43]

Chad-

Please find attached clean and redline versions of our response. This should address all comments from the two passbacks. Let us know if you have any questions.

Thanks, Venu

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 8/2/2013 9:42:00 PM
To: Hannon, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25c873d522e94729b8d70106c88cbadf-JHANNON]
Subject: passback
Attachments: EO12866_RFS 2013 Annual Rule 2060-AR43 FRM FRN_20130802.docx

From: Ghanta, Venu
Sent: Friday, August 02, 2013 5:41 PM
To: Hengst, Benjamin
Subject: the sweaty towels

Venu Ghanta
Office of Transportation and Air Quality
US Environmental Protection Agency
202-564-1374 (phone)

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 8/5/2013 12:57:21 PM
To: Korotney, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7b00e16e09654b94bc6146550ca87936-Korotney, David]
Subject: FW: 8/2 EPA Response pertaining to 2013 RFS Volume Standards [RIN 2060-AR43]
Attachments: EO12866_RFS 2013 Annual Rule 2060-AR43 FRM FRN_20130802.docx

This is the passback.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Ghanta, Venu
Sent: Friday, August 02, 2013 6:38 PM
To: Whiteman, Chad
Cc: Korotney, David; Machiele, Paul; Argyropoulos, Paul; Simon, Karl; Hengst, Benjamin; Lie, Sharyn; Farber, Glenn; Nagelhout, Peter; Hannon, John
Subject: 8/2 EPA Response pertaining to 2013 RFS Volume Standards [RIN 2060-AR43]

Chad-

Please find our response, which is in redline from your passback earlier today.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks, Venu

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 5/30/2013 1:53:03 PM
To: Argyropoulos, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0149b93d2780437a9c2b6d8477df7991-pargyrop]; Ghanta, Venu [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf46c0305194992a35fd4fa7b1b78fc-vghanta]; Weihrauch, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=74d426b7439045d9a0a65b186ea68b21-Jweihrau]; Burkholder, Dallas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=667ef175292d4784997e454a9985b3b3-Burkholder, Dallas]; Korotney, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7b00e16e09654b94bc6146550ca87936-Korotney, David]; Machiele, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b71a67c326714ebbaa72eda552e55282-Machiele, Paul]; Lie, Sharyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02041179e5dd4b9e9c5ea63701032c04-slie]
CC: Simon, Karl [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4d781d1ad595415db3a4e768c2d2b3fc-Simon, Karl]; Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]; Manners, Mary [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ebdb1392504a4b71894970b1a7bb186c-Manners, Mary]
Subject: RE: PLEASE REVIEW BY NOON THURSDAY: draft hearing Q&As
Attachments: QA for House Oversight June 5 2013 RFS hearing-VG v2 - PA BH.docx

Some edits on top of Paul A's. Only on the following Qs (page number):

5
8
12
20
21
23
29
33
46

Deliberative Process / Ex. 5

From: Argyropoulos, Paul
Sent: Thursday, May 30, 2013 9:16 AM
To: Ghanta, Venu; Weihrauch, John; Hengst, Benjamin; Burkholder, Dallas; Korotney, David; Machiele, Paul; Lie, Sharyn
Cc: Simon, Karl; Bunker, Byron; Manners, Mary
Subject: RE: PLEASE REVIEW BY NOON THURSDAY: draft hearing Q&As

Venu,

Just a few thoughts / comments and suggested edits.

Thanks.

Paul Argyropoulos

Senior Policy Advisor
US EPA
Office of Transportation and Air Quality
Phone: 202-564-1123
Mobile: 202-577-9354
Email: argyropoulos.paul@epa.gov
Web: www.epa.gov

From: Ghanta, Venu
Sent: Wednesday, May 29, 2013 5:43 PM
To: Weihrauch, John; Hengst, Benjamin; Burkholder, Dallas; Korotney, David; Machiele, Paul; Argyropoulos, Paul; Lie, Sharyn
Cc: Simon, Karl; Bunker, Byron; Manners, Mary
Subject: PLEASE REVIEW BY NOON THURSDAY: draft hearing Q&As

Please review this version by noon Thursday. This includes all of CD's answers as well as Ben's latest couple of edits.

Karl and Byron-You may get another bite at this apple later, but no guarantees. Still needs to go over to OGC and then to Chris and OAR/OCIR.

Deliberative Process / Ex. 5

Thanks!

From: Weihrauch, John
Sent: Wednesday, May 29, 2013 5:03 PM
To: Hengst, Benjamin; Ghanta, Venu; Burkholder, Dallas; Korotney, David; Machiele, Paul; Argyropoulos, Paul; Lie, Sharyn
Cc: Simon, Karl; Bunker, Byron; Manners, Mary
Subject: RE: draft hearing Q&As

Please see my contributions to pages 21, and 25- 34.

All other pages are from an older version.

Thanks,
John

From: Hengst, Benjamin
Sent: Wednesday, May 29, 2013 4:37 PM
To: Ghanta, Venu; Burkholder, Dallas; Korotney, David; Machiele, Paul; Argyropoulos, Paul; Lie, Sharyn; Weihrauch, John
Cc: Simon, Karl
Subject: RE: draft hearing Q&As

Made a few edits (based on what David K sent me earlier) on p. 22 and 23 only

From: Ghanta, Venu
Sent: Wednesday, May 29, 2013 3:02 PM
To: Burkholder, Dallas; Korotney, David; Machiele, Paul; Hengst, Benjamin; Argyropoulos, Paul; Lie, Sharyn; Weihrauch, John

Cc: Simon, Karl
Subject: RE: draft hearing Q&As

All-

I accepted all of ASD's changes and added them to what Ben already had. I also edited the answers to the unassigned questions, and I left that in track changes in case any of you want to review.

If it's not too late, please make your edits on top of this version. Please note that we are still waiting on CD's answers.

Thanks, Venu

From: Burkholder, Dallas
Sent: Wednesday, May 29, 2013 9:39 AM
To: Korotney, David; Machiele, Paul; Hengst, Benjamin; Argyropoulos, Paul; Lie, Sharyn; Weihrauch, John
Cc: Simon, Karl; Ghanta, Venu
Subject: RE: draft hearing Q&As

More changes to Q7.

From: Korotney, David
Sent: Wednesday, May 29, 2013 9:35 AM
To: Machiele, Paul; Hengst, Benjamin; Argyropoulos, Paul; Lie, Sharyn; Burkholder, Dallas; Weihrauch, John
Cc: Simon, Karl; Ghanta, Venu
Subject: RE: draft hearing Q&As

Some additional edits.

From: Machiele, Paul
Sent: Wednesday, May 29, 2013 9:04 AM
To: Hengst, Benjamin; Argyropoulos, Paul; Lie, Sharyn; Burkholder, Dallas; Korotney, David; Weihrauch, John
Cc: Simon, Karl; Ghanta, Venu
Subject: RE: draft hearing Q&As

Here's a draft of the ones that were assigned to me (6,7,11,12,14-19) – with a few blanks highlighted to be filled in by Dave/Dallas/John W. I'll try to review Ben's later today

Paul

From: Hengst, Benjamin
Sent: Tuesday, May 28, 2013 4:56 PM
To: Argyropoulos, Paul; Machiele, Paul; Lie, Sharyn; Burkholder, Dallas; Korotney, David; Weihrauch, John
Cc: Simon, Karl; Ghanta, Venu
Subject: draft hearing Q&As

All:

I reviewed/edited/draft responses for the following questions. Please take a look and send me edits by tomorrow afternoon.

Questions on page: 20, 22, 23, 24, 35, 36, 38, 39, 40-46,

(Karl – I think Lori et al are planning to run a combined set of Q&As by OGC and Chris, so if you don't have time to review these now, there will probably be an opportunity later).

The questions assigned to me include stuff on RIN prices, so Paul M and others, please take a look.

I still need to generate a few more Q&As (e.g., food v fuel). Paul A are you putting together a second list of Qs that weren't in this first set?

Thanks, Ben

From: Stewart, Lori
Sent: Thursday, May 23, 2013 5:22 PM
To: Machiele, Paul; Hengst, Benjamin; Weihrauch, John
Cc: Argyropoulos, Paul; Le, Madison; Ghanta, Venu
Subject: FW: Starter Q&A for June 5 RFS hearing - input by COB Wednesday please

Thanks Ben for generating this list of questions. I looked through them and there were a number of questions toward the beginning of the list that I think we can cover with materials we already have. I propose the following as leads on the others. I think the example answers Ben provided are a good indication of the brevity we need for the hearing Qs &As... just two to four key points is all that is needed. Paul, Ben, and John, can you or your designee please provide responses to the following questions by COB Wednesday, May 29? Thanks very much.

Paul Machiele or your designee: Page numbers (questions are one per page in Ben's format): 6, 7, 11,12, and 14 thru 19

Ben Hengst or your designee: Pages 20, 22,23,24, 35, 39, 40, 45

John Weihrauch or designee: Pages 21, and 25 thru 34

From: Hengst, Benjamin
Sent: Thursday, May 23, 2013 10:48 AM
To: Argyropoulos, Paul; Le, Madison
Cc: Ghanta, Venu; Stewart, Lori; Simon, Karl
Subject: Starter Q&A for June 5 RFS hearing

Paul, Madison:

As promised, here's a list of Q&As for the hearing prep, to get things moving.

I went back and scoured previous materials and assembled it all in a list.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

At this point I'll turn this completely over to the Paul/Lori/Madison/Venu gang and let you guys run with it. Hopefully this helps you.

Thanks, Ben

Topics

Deliberative Process / Ex. 5

Message

From: Grundler, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D3BE58C2CC8545D88CF74F3896D4460F-GRUNDLER, CHRISTOPHER]
Sent: 8/5/2013 1:48:00 AM
To: McCabe, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d2ca413e5a534895bd6042d82e5b5f63-McCabe, Janet]
Subject: Fw: 8/2 EPA Response pertaining to 2013 RFS Volume Standards [RIN 2060-AR43]
Attachments: EO12866_RFS 2013 Annual Rule 2060-AR43 FRM FRN_20130802.docx

Janet--on bb, so this is best I can do. Here is final pass back

From: Ghanta, Venu
Sent: Friday, August 02, 2013 7:50:42 PM
To: Stewart, Lori; Grundler, Christopher
Subject: FW: 8/2 EPA Response pertaining to 2013 RFS Volume Standards [RIN 2060-AR43]

Sorry, my email went haywire so I am just now getting this to you. We will convene with EIA first thing Monday and try to get that issue squared away.

From: Ghanta, Venu
Sent: Friday, August 02, 2013 6:38 PM
To: Whiteman, Chad
Cc: Korotney, David; Machiele, Paul; Argyropoulos, Paul; Simon, Karl; Hengst, Benjamin; Lie, Sharyn; Farber, Glenn; Nagelhout, Peter; Hannon, John
Subject: 8/2 EPA Response pertaining to 2013 RFS Volume Standards [RIN 2060-AR43]

Chad-

Please find our response, which is in redline from your passback earlier today. This should address all comments except for the one remaining EIA issue. We plan to have a discussion Monday morning to resolve that.

Thanks, Venu

Message

From: Graham, Cheryl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC456030F1A7475397AFE7895933BAEC-CGRAHAM]
Sent: 11/14/2016 8:45:35 PM
To: Page, Steve [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=269c9581404542e79501f2bf0379a2ad-SPAGE]; Harnett, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=437834c4b30541d2beb0386cc3d0e253-WHARNETT]; Tsirigotis, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c179f3ccb4fadb48e3ae85563f132-PTSIRIGO]; Henigin, Mary [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cbe828e291f4facb492fc28261db45f-MHenigin]; Davis, Alison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1c309f42d5d44d18a52b027bd0112778-ADAVIS06]; Montoro, Marta [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02244a49b2b14d77b2a9e749dd87f704-MMONTORO]; Rush, Alan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=87bd4df8264d4490afe9414cb28062b9-ARush]; Schillo, Bruce [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a71c3eb16aeb4bd2a0b3e1c950c44111-Bschill]; Holmes, Carol [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a63f745584114ae9b119547a4dc845fd-Holmes, Carol]; Mazakas, Pam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fde3017279c64e3ebff1ad7dc5d5b835-Pmazakas]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; Drinkard, Andrea [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=808a6b7b65bf447f93dad2f510feaf61-ADRINKAR]; South, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ead249df78840c9928874ec2ec4f9a6-PSouth]; Lipshultz, Jon (ENRD) [Jon.Lipshultz@usdoj.gov]; Christopher.Vaden@usdoj.gov; Goffman, Joseph [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=861d0835510c4bb0b32bbca40afbdfb9-Goffman, Joseph]; McCabe, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d2ca413e5a534895bd6042d82e5b5f63-McCabe, Janet]; Mccarthy, Gina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=51ee957b10cb49a0b2ff98174ae44a46-Mccarthy, Regina]; Wood, Anna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39055f080135414ca3b8c18d4f578755-AWood02]; Edwards, Crystal [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0d40b5f15b2a4c438f44bbae579d829a-Edwards, Crystal]; Mathias, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4be52cdcca348eeb5cd1efebe6caf24-SMATHIAS]; Chapman, Apple [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c52a18bcf6164b6d9f04545db694cac1-ACHAPMAN]; Chappell, Linda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80be0193f1024059ad9c050b42f5af30-LCHAPPEL]; South, Mia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ffac1c6273e4b439a0852a1159885ca-South, Mia]; Schmidt, Lorie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f471d4b316f74b0591322b5c63f1d01c-Schmidt, Lorie]; DeMocker, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d331cfe11ecc4729ae582d379c2ad18b-JDemocke]; Cortelyou-Lee, Jan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=75b1eec7b16e46d5b9114935fc6a771e-JCORTELY]; Smith, Kristi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed7a08d522c54f2fa8387a7b5771d8d5-Smith, Kristi]; Iglesias, Amber [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=ed1da89f33f24b5b9f2c4b9bcf91a2ad-Iglesias, A]; Schachter, Scott (ENRD) [Scott.Schachter@usdoj.gov]; stephen.samuels@usdoj.gov; Stewart, Lori [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8404f4ff6c924b2f8f3fb80c3a4467a7-Istewa04]; Doyle, Andrew (ENRD) [Andrew.Doyle@usdoj.gov]; Hill, Leslie (ENRD) [Leslie.Hill@usdoj.gov]; Maghamfar, Dustin (ENRD) [Dustin.Maghamfar@usdoj.gov]; Alfaro, Carlos [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5023bf5ee3af4db4ab71f6aba008b1d9-CALfaro]; Mitchell, Ken [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e49335e2f5a64cbfa97c39cbf1faff2b-Mitchell, Kenneth]; Wortman, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a6a4541680f4c89adaf1198de1925c4-Wortman, Eric]; Powell, Keri [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1d9ee354061048ccb00422f755171513-Powell, Keri]; Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]; Purdy, Angeline (ENRD) [Angeline.Purdy@usdoj.gov]; Debra.Carfora@usdoj.gov; Perez, Idalia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03b7a08fdbe4934911f17550d78491d-IPEREZ]

Subject: ARLO Deadline Calendar for the Week of November 14, 2016

Attachments: ARLO Deadline Calendar for the Week of November 14 2016.docx

Attached is the current deadline calendar and other information that is sent out weekly from ARLO. If information in the attachment raises questions, please contact Lorie Schmidt. Thanks

Cheryl R. Graham
OGC/ARLO
(202) 564-5473

Message

From: Graham, Cheryl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC456030F1A7475397AFE7895933BAEC-CGRAHAM]

Sent: 11/7/2016 9:30:31 PM

To: Page, Steve [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=269c9581404542e79501f2bf0379a2ad-SPAGE]; Harnett, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=437834c4b30541d2beb0386cc3d0e253-WHARNETT]; Tsirigotis, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c179f3ccb4fadb48e3ae85563f132-PTSIRIGO]; Henigin, Mary [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cbe828e291f4facb492fc28261db45f-MHenigin]; Davis, Alison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1c309f42d5d44d18a52b027bd0112778-ADAVIS06]; Montoro, Marta [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02244a49b2b14d77b2a9e749dd87f704-MMONTORO]; Rush, Alan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=87bd4df8264d4490afe9414cb28062b9-ARush]; Schillo, Bruce [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a71c3eb16aeb4bd2a0b3e1c950c44111-Bschill]; Holmes, Carol [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a63f745584114ae9b119547a4dc845fd-Holmes, Carol]; Mazakas, Pam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fde3017279c64e3ebff1ad7dc5d5b835-Pmazakas]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; Drinkard, Andrea [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=808a6b7b65bf447f93dad2f510feaf61-ADRINKAR]; South, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ead249df78840c9928874ec2ec4f9a6-PSouth]; Lipshultz, Jon (ENRD) [Jon.Lipshultz@usdoj.gov]; Christopher.Vaden@usdoj.gov; Goffman, Joseph [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=861d0835510c4bb0b32bbca40afbdfb9-Goffman, Joseph]; McCabe, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d2ca413e5a534895bd6042d82e5b5f63-McCabe, Janet]; Mccarthy, Gina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=51ee957b10cb49a0b2ff98174ae44a46-Mccarthy, Regina]; Wood, Anna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39055f080135414ca3b8c18d4f578755-AWood02]; Edwards, Crystal [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0d40b5f15b2a4c438f44bbae579d829a-Edwards, Crystal]; Mathias, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4be52cdcca348eeb5cd1efebe6caf24-SMATHIAS]; Chapman, Apple [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c52a18bcf6164b6d9f04545db694cac1-ACHAPMAN]; Chappell, Linda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=80be0193f1024059ad9c050b42f5af30-LCHAPPEL]; South, Mia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ffac1c6273e4b439a0852a1159885ca-South, Mia]; Schmidt, Lorie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f471d4b316f74b0591322b5c63f1d01c-Schmidt, Lorie]; DeMocker, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d331cfe11ecc4729ae582d379c2ad18b-JDemocke]; Cortelyou-Lee, Jan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=75b1eec7b16e46d5b9114935fc6a771e-JCORTELY]; Smith, Kristi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed7a08d522c54f2fa8387a7b5771d8d5-Smith, Kristi]; Iglesias, Amber [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=ed1da89f33f24b5b9f2c4b9bcf91a2ad-Iglesias, A]; Schachter, Scott (ENRD) [Scott.Schachter@usdoj.gov]; stephen.samuels@usdoj.gov; Stewart, Lori [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8404f4ff6c924b2f8f3fb80c3a4467a7-Istewa04]; Doyle, Andrew (ENRD) [Andrew.Doyle@usdoj.gov]; Hill, Leslie (ENRD) [Leslie.Hill@usdoj.gov]; Maghamfar, Dustin (ENRD) [Dustin.Maghamfar@usdoj.gov]; Alfaro, Carlos [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5023bf5ee3af4db4ab71f6aba008b1d9-CALfaro]; Mitchell, Ken [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e49335e2f5a64cbfa97c39cbf1faff2b-Mitchell, Kenneth]; Wortman, Eric [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5a6a4541680f4c89adaf1198de1925c4-Wortman, Eric]; Powell, Keri [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1d9ee354061048ccb00422f755171513-Powell, Keri]; Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]; Purdy, Angeline (ENRD) [Angeline.Purdy@usdoj.gov]; Debra.Carfora@usdoj.gov; Perez, Idalia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03b7a08fdbe4934911f17550d78491d-IPEREZ]

Subject: ARLO Deadline Calendar for the Week of November 7, 2016

Attachments: ARLO Deadline Calendar for the Week of November 7 2016.docx

Attached is the current deadline calendar and other information that is sent out weekly from ARLO. If information in the attachment raises questions, please contact Lorie Schmidt. Thanks

Cheryl R. Graham
OGC/ARLO
(202) 564-5473

Message

Sent: 12/19/2018 8:12:48 PM
To: Thundiyil, Karen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25cfc85adc76406db1ddf8a5232eb5e8-KTHUNDIY]
Subject: RE: New SRE waiver?

Friday now. UGH!! Was supposed to be Monday (so I could finish last-minute stuff over the wkd, and spend Monday packing...rather than packing while I'm still trying to work!) – but because of the uncertainty with the shutdown

From: Thundiyil, Karen
Sent: Wednesday, December 19, 2018 3:07 PM
To: Sutton, Tia <sutton.tia@epa.gov>
Subject: RE: New SRE waiver?

Deliberative Process / Ex. 5

What is your last working day?

From: Sutton, Tia
Sent: Wednesday, December 19, 2018 3:06 PM
To: Thundiyil, Karen <Thundiyil.Karen@epa.gov>
Subject: RE: New SRE waiver?

Of course!

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Thundiyil, Karen
Sent: Wednesday, December 19, 2018 2:55 PM
To: Sutton, Tia <sutton.tia@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: RE: New SRE waiver?

Great- Thank you!

From: Sutton, Tia
Sent: Wednesday, December 19, 2018 2:50 PM
To: Thundiyil, Karen <Thundiyil.Karen@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: RE: New SRE waiver?

Deliberative Process / Ex. 5

From: Thundiyil, Karen
Sent: Wednesday, December 19, 2018 2:46 PM
To: Sutton, Tia <sutton.tia@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: RE: New SRE waiver?

Okay – thanks.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Karen.

From: Sutton, Tia

Sent: Wednesday, December 19, 2018 2:40 PM

To: Thundiyil, Karen <Thundiyil.Karen@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>

Subject: RE: New SRE waiver?

Released? No, we have not put anything out.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Thundiyil, Karen

Sent: Wednesday, December 19, 2018 1:28 PM

To: Burch, Julia <Burch.Julia@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>

Subject: New SRE waiver?

Hi – did another SRE waiver get released?

Deliberative Process / Ex. 5

Thanks,

Karen.

12

Message

From: Boylan, Thomas [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=32E90A8AA3B04741A8FFB43F7E8814F5-BOYLAN, THO]
Sent: 9/17/2018 8:08:27 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: NNT0: Skype not working...SRE Q&As are ready to send around

Thomas Boylan
U.S. Environmental Protection Agency
Office of Transportation and Air Quality
202-564-1075
boylan.thomas@epa.gov

Message

From: Boylan, Thomas [boylan.thomas@epa.gov]
Sent: 10/23/2018 2:08:31 PM
To: Boylan, Thomas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=32e90a8aa3b04741a8ffb43f7e8814f5-Boylan, Tho]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: Conversation with Boylan, Thomas

Boylan, Thomas 10:04 AM:

Is the SRE call working?

Boylan, Thomas 10:04 AM:

It just keeps ringing

Sutton, Tia 10:04 AM:

i hadn't called in yet, but looks like no one can get it to work

Message

From: POLITICO Pro Energy [politicoemail@politicopro.com]
Sent: 9/18/2018 9:55:11 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Morning Energy, presented by Chevron: Surveying Florence's damage — Perry, Baltic leaders converge — Putting a finer Indian Point on it

By Kelsey Tamborrino | 09/18/2018 05:53 AM EDT

With help from Anthony Adragna and Darius Dixon

DECISION TIME: Today's shaping up to be a crucial day in determining whether Congress can actually resolve differences in its third minibus H.R. 6147 (115) that contains the Interior and Environment title. Senate Appropriations Chairman Richard Shelby (R-Ala.) told reporters he was huddling with other conferees to see if there's a path forward. "Have we reached a real impasse?" he asked. "Or are there some things we can jump over and work out?" Shelby acknowledged the riders in the House bill would complicate the task, which already faces an uphill path to the finish line before the Oct. 1 deadline.

Moving on disaster relief: Shelby said he'd like to get some funding to the hurricane-ravaged Carolinas before the end of the fiscal year if possible. "If we had some numbers — and if the administration and the House would work with us — I think we could do something ahead of time — be ahead of the curve a little bit," he said. "Do they have enough information to give us some information that we can act on while we're still here? Or do we have to wait until the flooding is all receded and they assess the damages, and then we have to act?"

SURVEYING THE DAMAGE: While Florence continues to bring flooding across several East Coast states, North Carolina continues to shoulder the brunt of the devastation. By officials' latest count, at least 32 people have died as a result of tropical depression Florence, with 25 of those from North Carolina. "This is a monumental disaster for our state," Gov. Roy Cooper said Monday. "This is an epic storm that is still continuing because the rivers are still rising."

While no significant pipeline issues have so far been reported, the Energy Department said coastal areas impacted by Florence "are experiencing widespread outages at retail fuel stations due to power outages and conditions preventing resupply from terminals." As of Monday afternoon, GasBuddy.com calculated 23 percent of North Carolina gas stations and 11 percent of South Carolina gas stations were reported out-of-service.

As of Monday night, about 400,000 utility customers in the region remained without power, mostly in North Carolina, according to the Associated Press. Duke Energy calculated it experienced a total of 1.5 million outages so far throughout Florence, but the company said it has already restored power for roughly 1.2 million of those customers and is working to get the rest of its customers online. "I've lived in North Carolina my entire life, and I've seen a lot of bad storms, a lot of bad hurricanes. But this is absolutely the worst," David Fountain, president of Duke Energy North Carolina, said on CNBC's "Squawk Box."

Several of North Carolina's open-air manure pits at hog farms have failed and are spilling pollution, the state's top environmental regulator warned. At one hog lagoon in Duplin County, North Carolina Department of Environmental Quality Secretary Michael Regan said the earthen dam was breached, according to the AP. There's also been several reports of lagoon levels going over their tops or being inundated in Jones and Pender counties. Regan said state investigators will visit the sites as conditions allow. The AP also reports based on data obtained from the National Inventory of Dams that North Carolina has 1,445 dams rated high hazard, and

185 structures that had conditions of poor or unsatisfactory during recent inspections, causing concern that the dams might not be able to hold up under the influx of flood waters.

Meanwhile, Florence's remnants brought rare tornadoes to Virginia, knocking out power for thousands of Dominion Energy customers in the Richmond area. Dominion spokesman David Botkins told the Richmond Times Dispatch there was "extensive damage," including to utility poles, transformers and wires.

IT'S TUESDAY! I'm your host, Kelsey Tamborrino. The U.S. Oil & Gas Association's Albert Modiano knew Sen. Claire McCaskill (D-Mo.) appeared on the television game show "High Rollers" and won. For today: Name the former presidents who visited all 50 states while in office. Send your tips, energy gossip and comments to ktamborrino@politico.com, or follow us on Twitter @kelseytam, @Morning_Energy and @POLITICOPro.

NO WORD: For those curious, Senate EPW Chairman John Barrasso (R-Wyo.) told ME as he scampered into the Senate chamber it remained unclear whether a vote on a broad water infrastructure package S. 3021 (115) would happen this week. "There's a lot going on," he quipped.

SEARCHING FOR A SEA CHANGE? Energy Secretary Rick Perry is in Bucharest, Romania, today for Day Two of the Three Seas Initiative Summit, where he will meet with heads of state and deliver closing remarks. The event brings together central European leaders in hopes of delivering the message that they want to be a "significant player" in the world's economy, according to remarks from Polish President Andrzej Duda. The trip follows Perry's meeting last week with Russian Energy Minister Alexander Novak, where the secretary told Novak that "Moscow can no longer use energy as an economic weapon." The White House has touted energy security before Baltic leaders in the past, previously detailing that the U.S. is seeking to diversify energy sources, supplies and routes throughout the region, including with the expansion of U.S. liquefied natural gas.

President Donald Trump sent a letter Monday to Romania President Klaus Iohannis saying the 12-member initiative could expand infrastructure and strengthen energy security, among other issues, according to the AP. Duda will be in Washington today to meet with the president, where trade and security matters are on tap.

**** Presented by Chevron:** Chevron and local partners are helping to provide DOERS with the hands-on technical training needed for today's jobs in the manufacturing and energy industries. Watch the video. **

WHERE'S ZINKE? Interior Secretary Ryan Zinke will hold a news conference today in Lafayette, La., to announce Land and Water Conservation Fund "funding to leverage public and private investment in America's state and local public parks."

— **The final countdown:** House Natural Resources Committee Democrats launched an online "#SaveLWCF" social initiative on Monday to highlight the conservation program ahead of its Sept. 30 funding deadline. As part of the effort, Natural Resources Democrats will tweet out an "LWCF success story" every hour until the end of the month.

PUTTING A FINER INDIAN POINT ON IT: After a famously long review process, the Nuclear Regulatory Commission approved new licenses Monday for both of Entergy Corp.'s Indian Point nuclear reactors. Yet it's something of a mixed blessing for the nuclear industry. The company spent 11 years trying to get the licenses renewed but instead of running for another 20 years — the normal length of an extension — the units will only be allowed to run through April 2024 and April 2025 as part of an agreement reached with New York state and Riverkeeper to close the reactors early.

Many, many, MANY Democratic politicians have raised hell about Indian Point over the decades, pouncing on every real and perceived flaw the plant had, especially after the attacks of Sept. 11, 2001, without really acting to shut the plant down. New York Gov. Andrew Cuomo proved himself to be dogged on the issue and

last year's deal calls for Entergy to close the plant in 2021 but the extra few years is meant offer a buffer in case the state's grid operator says that reliability upgrades need to be made before the units can be taken offline.

AIR BILLS ON TAP TODAY: The Senate Environment and Public Works Committee holds a markup on a spate of targeted air pollution bills today, including S. 1857 (115), a bill from West Virginia Sen. Shelley Moore Capito that would delay emissions compliance deadlines for residential wood heaters and similar devices until May 15, 2023. The committee will also vote on the nomination of Harold Parker to be co-chair of the Northern Border Regional Commission, as well as four General Services Administration resolutions. **If you go:** The hearing begins at 9:55 a.m. in 406 Dirksen.

PASSING GAME: The Office of Government Ethics opted out of taking on a complaint from Rep. Don Beyer (D-Va.) and three other Democrats concerning acting EPA Administrator Andrew Wheeler's contacts with former clients, instead referring the complaint Monday to EPA's in-house ethics experts, Pro's Alex Guillén reports. The Democrats in July argued that since his arrival at EPA, Wheeler met with at least three former clients despite his ethics agreement. OGE Director Emory Rounds wrote Monday that "EPA is in the best position to ascertain the relevant facts and is responsible for monitoring its appointees' compliance with ethics requirements."

EPA CONSIDERS PARTIAL WAIVERS: EPA is weighing whether to give small refiners partial exemptions from the Renewable Fuel Standard, a spokesman tells Pro's Eric Wolff. The move would allow refiners to shed a portion of their requirements to blend ethanol with gasoline, after former Administrator Scott Pruitt sharply increased the number of economic hardship exemptions the agency issued to small refiners. "This issue is the subject of ongoing discussions" with the Department of Agriculture, the White House and DOE, EPA spokesman Michael Abboud said Monday.

ATLANTIC PIPELINE ALLOWED TO CONTINUE CONSTRUCTION: FERC staff lifted an agency order that halted work on the Atlantic Coast natural gas pipeline on Monday, allowing previously held-up portions to continue with construction, Pro's Darius Dixon reports via a letter to project developers. The pipeline builders were told to stop working on the project last month after the 4th Circuit Court of Appeals tossed out permits for letting the project cross land held by the National Park Service.

PUERTO RICO WATER ANNOUNCEMENT TODAY: To mark the one-year anniversary of Hurricane Maria's landfall, EPA Regional Administrator Pete Lopez will meet with Caribbean officials on how best to strengthen the partnerships formed during the emergency response. Lopez will also announce an agreement today on strengthening community drinking water systems in Puerto Rico, EPA said.

EDF ACTION PUTS \$1M IN 4 RACES: EDF Action will detail a plan today to spend \$1 million across four House races over the next four weeks. The plan will involve both direct mail and digital ads targeting Reps. Jason Lewis in Minnesota, Mike Coffman in Colorado, and Dana Rohrabacher in California, as well as Danny Tarkanian, who's running for an open seat in Nevada.

LOOKING TOWARD THE MIDTERMS: The political arm of the Environmental Working Group, known as EWG Action Fund, released a report this morning grading every House lawmaker on chemical policy and chemical safety votes. The action fund focused on 17 bills and amendments, which members voted on during both the 115th and 114th Congresses. An analysis from EWG Action found that 140 lawmakers voted against safeguards for toxic chemicals in every vote, while 149 members consistently voted for chemical safety protections.

Breaking it down: The scorecard comes a day after Michigan Reps. Debbie Dingell, Dan Kildee, Fred Upton and Tim Walberg introduced a bill to combat the spread of the toxic nonstick chemicals known as PFAS. Upton and Walberg both scored low marks under the scorecard, while they're facing races that the Cook Political Report listed as among the most competitive. Walberg voted against every measure on the EWG scorecard,

garnering a 0 percent "pro-environment" score from the group. Upton voted against all but two measures, gaining an 18 percent score. Elsewhere on the card, North Carolina Rep. Richard Hudson also scored 0 percent — his district faces contamination of GenX, a PFAS chemical similar to PFOA and PFOS.

MAIL CALL! Massachusetts Sens. Ed Markey and Elizabeth Warren asked questions and requested documents from Columbia Gas of Massachusetts, NiSource and the Pipeline and Hazardous Materials Safety Administration on Monday related to last week's natural gas explosions in Lawrence, North Andover and Andover, Mass., that killed one person. "It is imperative that the people of the Commonwealth are provided an understanding of what caused this disaster and how you responded to it, in order to ensure that we never again face a similar tragedy," the senators write.

— **Four Democratic senators** wrote to OMB Program Associate Director Kathy Kraninger on Monday demanding that she hand over documents related to her role in transferring funds from FEMA to ICE amid hurricane season.

QUICK HITS

— "Trump's tariffs will make recovery from Hurricane Florence more expensive," McClatchy.

— "The rivers keep rising, but some in flood zones won't leave," The Associated Press.

— "Sources: Green Plains to shut down two Iowa ethanol plants," Reuters.

— "8 ways that EPA's helping the coal industry," E&E News.

— "Probe of FEMA chief Brock Long referred to prosecutors," The Wall Street Journal.

HAPPENING TODAY

8:15 a.m. — Energy Department holds InnovationXLab Energy Storage Summit, Menlo Park, Calif.

8:45 a.m. — The Hoover Institution hosts "MIT-Stanford Energy Game Changers Symposium," 1399 New York Avenue NW.

9:55 a.m. — Senate Environmental and Public Works Committee business meeting on various bills, 406 Dirksen.

10 a.m. — Senate Commerce Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee hearing on "Fish Fights: An Examination of Conflicts Over Ocean Resources," 253 Russell.

Noon — The Heritage Foundation discussion on "Supreme Court Preview of the 2018 Term," 214 Massachusetts Ave NE.

Noon — The Atlantic Council discussion on "Dispatches from Our Energy Future," 1030 15th Street NW.

Noon — The Information Technology and Innovation Foundation discussion on "Clean Energy Innovation: Making a Carbon Tax More Affordable," 2247 Rayburn.

Noon — New Jersey Sen. Bob Menendez news conference on the one-year anniversary of Hurricane Maria hitting Puerto Rico, Senate Swamp.

Noon — Kleinman Center for Energy Policy discussion on "Effective Climate Action: The Case for Greenhouse Gas Neutrality," Philadelphia.

12:30 p.m. — The Washington Legal Foundation briefing on "The U.S. Supreme Court: October Term 2018 Preview," 2009 Massachusetts Avenue NW.

2:30 p.m. — Senate Armed Services Cybersecurity Subcommittee closed hearing on "Interagency Coordination in the Protection of Critical Infrastructure," SVC-217.

3 p.m. — World Resources Institute forum on "Carbon Removal as a Climate Solution," 10 G Street NE.

4 p.m. — The Atlantic Council discussion on "Hacker-Powered Security: Voices on Coordinated Vulnerability Disclosure," 1030 15th Street NW.

THAT'S ALL FOR ME!

**** Presented by Chevron:** See how Chevron with local partners are helping DOERS get the hands-on technical training needed for jobs in the energy and manufacturing industries. Watch the video. **

To view online:

<https://subscriber.politicopro.com/newsletters/morning-energy/2018/09/surveying-florences-damage-343526>

Stories from POLITICO Pro

DOE: Perry pressed Russian energy official on grid cyberattacks Back

By Darius Dixon | 09/13/2018 12:01 PM EDT

Energy Secretary Rick Perry signaled his "disappointment" in Russian attempts to undermine the U.S. electric grid in a meeting today with his Kremlin counterpart in Moscow, according to DOE.

Perry and Russian Energy Minister Alexander Novak also discussed how to use their prowess in oil and natural gas production to "ensure world energy market stability, transparency, and sustainability," DOE spokesperson Shaylyn Hynes said in a readout of the meeting.

Hynes said Perry expressed his "disappointment and concern about Russia's continued attempts to infiltrate the American electric grid." A Wall Street Journal report this summer that some cybersecurity experts have criticized said that officials at the Department of Homeland Security have been warning utility executives since 2014 about a long-running campaign by Russian-affiliated hackers to infiltrate U.S. critical infrastructure.

Perry made it clear that "Moscow can no longer use energy as an economic weapon," Hynes said. DOE has sought to leverage recent data showing that the U.S. recently overtook Russia as the world's largest crude oil producer for the first time in nearly two decades.

Despite the tensions over issues like the Nordstream 2 gas pipeline and attempted cyberattacks, the two men pledged to continue having an open line of communication.

Perry and Novak, Hynes said, agreed to continue this "previously dormant energy dialogue and to search for ways to work together, within the guidelines and limitations of our current bilateral relationship. The future of our energy relations is predicated on successfully addressing our broader disagreements."

To view online [click here.](#)

[Back](#)

Ethics agency refers Democrats' Wheeler complaint to EPA [Back](#)

By Alex Guillén | 09/17/2018 06:00 PM EDT

The Office of Government Ethics today referred a complaint from four House Democrats about acting Administrator Andrew Wheeler's contacts with former clients to EPA's in-house ethics experts.

Rep. [Don Beyer](#) (D-Va.) and three other Democrats in July [argued](#) that since his arrival at EPA, Wheeler met with at least three former clients when his ethics agreement indicated he would generally avoid meeting with former clients for two years.

"EPA is in the best position to ascertain the relevant facts and is responsible for monitoring its appointees' compliance with ethics requirements," [wrote](#) OGE Director Emory Rounds.

EPA already determined that the three companies in question do not meet the president's definition of "former client" because Wheeler did not work with them in the two years prior to arriving at EPA, Rounds noted. Wheeler is also able to meet with former clients when they are part of a larger group setting.

"Acting Administrator Wheeler understands his obligations under federal ethics laws and the Trump Ethics Pledge that he signed, and continues to work with EPA career ethics officials to fulfill these obligations," an EPA spokesman said in a statement. "On May 24, 2018, he issued a recusal statement that detailed his obligations concerning lobbying clients in the past two years before he rejoined the agency."

WHAT'S NEXT: Rounds said he has forwarded the lawmakers' inquiry to EPA's ethics officials for follow-up.

To view online [click here.](#)

[Back](#)

House Democrats call for investigation of Wheeler meetings with former clients [Back](#)

By Emily Holden | 07/27/2018 05:46 PM EDT

House Democrats are asking the Office of Government Ethics to review acting EPA Administrator Andrew Wheeler's meetings with companies that employed him as a lobbyist.

Rep. [Don Beyer](#) (D-Va.) and several colleagues sent a [letter](#) to the independent agency today following [reporting](#) from E&E News that Wheeler met with at least three former clients in recent months as deputy administrator. They pointed to previous Administrator Scott Pruitt's resignation "under a cloud of ethical controversy" among the reasons for their concern.

"That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully

scrutinized so that he is held to the highest ethical standard," wrote Beyer and Reps. [Raja Krishnamoorthi](#) (D-Ill.), [Pramila Jayapal](#) (D-Wash.), and [Jamie Raskin](#) (D-Md.).

EPA ethics reviews essentially operate on the honor system to ensure Wheeler is abiding by the Trump administration's pledge to avoid dealing with companies for whom he lobbied within the previous two years.

"We rely on the disclosures of an individual," ethics official Justina Fugh told POLITICO.

But public forms list Wheeler as a lobbyist for former clients less than two years before he was sworn in as deputy administrator on April 20. For example, Wheeler's former firm, Faegre Baker Daniels, did not disclose that it stopped lobbying for Darling Ingredients until May 31, 2016.

Fugh said Darling was not on a list Wheeler had submitted of lobbying clients in the prior two years. She said he also can meet with past clients that are subject to the pledge in certain group settings.

WHAT'S NEXT: The Democrats asked OGE to determine whether Wheeler had violated his pledge and to clarify its terms.

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EPA weighs partial biofuel waivers to small refiners [Back](#)

By Eric Wolff | 09/17/2018 04:26 PM EDT

EPA is considering allowing small refiners to receive partial exemptions from the Renewable Fuel Standard, according to a spokesman, a move that would allow them to shed a portion of their requirements to blend ethanol with gasoline.

"This issue is the subject of ongoing discussions" with the Department of Agriculture, the White House, and the Department of Energy, EPA spokesman Michael Abboud said.

Former EPA Administrator Scott Pruitt sharply increased the number of economic hardship exemptions the agency issued to small refiners, infuriating ethanol producers who said allowing the fuel processors to shed their blending requirements undermined the program. Ethanol industry officials say they expect EPA to continue liberally issuing the exemptions in the future.

Emily Skor, CEO of ethanol producers trade group Growth Energy, told reporters that acting EPA Administrator Andrew Wheeler is considering several options to tamp down battles between the oil and biofuels industries, including the changing the criteria refiners must meet for economic hardship.

"He's inherited a lot, " she said.

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FERC says work can continue on Atlantic Coast pipeline [Back](#)

By Darius Dixon | 09/17/2018 04:50 PM EDT

FERC staff lifted an agency order today that had halted work on the Atlantic Coast natural gas pipeline, according to a [letter](#) to project developers this afternoon.

The pipeline builders were [told to stop working](#) on the project last month after the 4th Circuit Court of Appeals tossed out permits for letting the project cross land held by the National Park Service. However, on Friday, the Park Service issued a new right of way permit for crossing the Blue Ridge Parkway.

"Construction activities along project areas, which had previously received a notice to proceed may now continue," FERC Director of Energy Projects Terry Turpin wrote.

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GOP appropriators approved cash transfer from FEMA to ICE [Back](#)

By Jennifer Scholtes | 09/12/2018 02:33 PM EDT

Congressional spending leaders signed off this summer on a Department of Homeland Security money shuffle that's now fueling Democratic jabs at the Trump administration's "misplaced" priorities as a hurricane of historic force spins toward the Eastern Seaboard.

Republican appropriators in both chambers gave the go-ahead several weeks ago for the Trump administration to transfer \$9.7 million from FEMA to Immigration and Customs Enforcement, according to lawmakers and aides on the spending committees.

The reprogramming request is one of dozens congressional spending leaders approve each month.

Unspent money from several other agencies — including TSA, the Coast Guard, and Customs and Border Protection — were also transferred to plus-up accounts for ICE by a total of about \$200 million and the Secret Service by nearly \$1.6 million, according to a [document](#) and [request](#) POLITICO [reported last week](#).

"It has been no secret that President Trump's obsession with his wall, mass deportation, and the indiscriminate detention of children comes at a hefty price - a price that robs our country of its values and its resources," Senate Appropriations ranking Democrat, Sen. [Patrick Leahy](#) (D-Vt.), said in a statement Wednesday afternoon. "This case is no different, and now our Eastern Coast is left even more vulnerable in the path of Hurricane Florence."

Sen. [Jeff Merkley](#) (D-Ore.) first made headlines late Tuesday by [saying on MSNBC](#) that "just as hurricane season is starting ... the administration is working hard to find funds for additional detention camps."

A senior GOP aide said the FEMA money comes from accounts for things like administrative travel, agency IT support and infrastructure maintenance, and that the leftover funds would have otherwise gone unspent.

The reprogramming request DHS sent to lawmakers lists amounts transferred to ICE from FEMA regional operations, response and recovery, mitigation, "preparedness and protection," as well as "mission support." That money has been redistributed to ICE "custody operations" and "transportation and removal," as well as Secret Service work.

Aides from FEMA and DHS criticized reports of the funding switch via their official Twitter accounts, beginning a tit-for-tat with Merkley's office.

DHS press secretary Tyler Houlton tweeted Tuesday that the money came from "routine operating expenses" and that Merkley's statements on MSNBC are a "sorry attempt to push a false agenda." FEMA spokeswoman Jenny Burke tweeted Wednesday that the senator's office told the agency that "It's a TV hit, you take it where you can."

Firing back, Merkley spokeswoman Martina McLennan said "it's not surprising to see a defensive and completely fallacious response from the Trump administration to their irresponsible and dangerous decision to move money from FEMA to pursue their family separation agenda."

"If the president had done more than tossed paper towels at storm victims ... maybe he would understand why stripping money from FEMA to pay for locking up families at the border is so troubling ..." she said.

Other Democratic lawmakers have joined in deriding the Trump administration over the DHS transfers.

Rep. Bennie Thompson of Mississippi, the top Democrat on the House Homeland Security Committee, said in a statement Wednesday that "this is yet another example of the Trump Administration's outrageously misplaced homeland security priorities."

"The 2017 hurricane season made painfully clear that FEMA has limited capacity to respond to multiple disasters as it is," Thompson said. "With Hurricane Florence bearing down on the Carolinas and Puerto Rico still struggling after Maria, FEMA absolutely cannot afford to have any of its resources diverted."

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Subject: EPA weighs partial biofuel waivers to small refiners

By Eric Wolff

09/17/2018 04:26 PM EDT

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"He's inherited a lot, " she said.

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Subject: Court reverses EPA denial of small refiner RFS waiver

By Alex Guillén

07/20/2018 01:27 PM EDT

A federal appeals court today sided with a West Virginia oil refiner seeking relief from the federal ethanol mandate.

The 4th Circuit U.S. Court of Appeals vacated a 2016 decision by EPA to reject the company's request for a small refinery exemption under the Renewable Fuel Standard, after faulting the underlying DOE analysis the Obama administration used to reach its decision.

The Trump administration has doubled the number of small refiner waivers being granted, amid a larger political fight over the future of the RFS between ethanol supporters who say the waivers undermine the program and refiners who say they are necessary to control costs. Ergon-West Virginia, the refiner that won in court today, praised the court's decision and called on Congress and the administration to continue to protect refiners.

"The argument touted by ethanol advocates of demand destruction as a result of hardship waivers is simply not based in logic or facts," company president Kris Patrick said in a statement.

The 4th Circuit said DOE's economic analysis "is plainly arbitrary" because it treats some refiners unfairly, and faulted EPA for ignoring flaws in the analysis before rejecting Ergon's waiver petition.

"Although the EPA is statutorily required to consider the DOE's recommendation, it may not turn a blind eye to errors and omissions apparent on the face of the report, which Ergon pointed out and the EPA did not address in any meaningful way," the judges wrote.

The court also faulted EPA for a "cursory consideration" of RIN price impacts on the Ergon refinery.

WHAT'S NEXT: The court sent the matter back to EPA for reconsider after DOE and EPA complete a new analysis addressing the flaws identified by the court.

To view online:

<https://subscriber.politicopro.com/agriculture/whiteboard/2018/07/court-reverses-epa-denial-of-small-refiner-rfs-waiver-1622924>

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Subject: FW: Draft 2019 RFS Final Rule for OAR Review
Attachments: 2019 FRM Draft 10.5.18.docx; 2019 FRM Draft 10.5.18 RLSO.docx

Delaney – Would you please print the first attached document for me? I do not need the second. Thanks.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

From: Hengst, Benjamin
Sent: Friday, October 5, 2018 2:43 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Draft 2019 RFS Final Rule for OAR Review

Bill, Mandy:

I'm attaching clean and redline versions of the draft RFS 2019 final volume rule for your review.

Given the similarity of this rule the NPRM from earlier this year, it will make your life easier if you simply review the redline. A few additional notes:

Deliberative Process / Ex. 5

Thanks,
Ben